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City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**Residential Rent Stabilization
and Arbitration Board**

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

Tuesday, 6:00 p.m.,
January 5, 1999
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

I.	Call to Order
LARRY BEACH BRICKER SHIRLEY A. BIERLY DAVID GUSTAV GRUBER ANTHONY JUSTMAN MERRIE T. LIGHTNER EVERETT Q. MOORE NEVEO MOSSER BARTHOLOMEW MURPHY	II. Roll Call
	III. Approval of the Minutes
	IV. Remarks from the Public
	V. Consideration of Appeals

A. 2471 Bryant St. T001-26A
(cont. from 12/1/98)

The landlord appeals the decision granting rent reductions due to decreased housing services.

B. 1750 Vallejo St. #102, 103 104, 201, 403 & 406 T001-28 & -29R;
T001-37 thru -40R
(cont. from 12/15/98)

Six tenants appeal the remand decision granting certification of capital improvement costs.

C. 405 - 18th Ave. T001-28A
(cont. from 12/15/98)

The landlord appeals the decision granting rent reductions due to decreased housing services.

D. 315 Pamassus Ave. T001-29A
(cont. from 12/15/98)

The landlord appeals the decision granting rent reductions due to decreased housing services.

E. 3615 - 17th St. T001-35 & -36R

The tenants appeal the decision granting certification of capital improvement costs; one on the grounds of financial hardship.

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Page 2 of the Agenda of January 5, 1999

F. 1121 Masonic Ave. #6 & 9 T001-30A

The landlord appeals the decision granting rent reductions due to decreased housing services.

G. 2211 Castro St. T001-31R thru -34R

Four tenants appeal the decision granting certification of capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

Costa-Hawkins (Civil Code Section 1954.53)

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN

PRESIDENT

5/99

POLLY MARSHALL

VICE-PRESIDENT

JOSEPH GRUBB

EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

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I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Tuesday, January 5, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

II. Roll Call

Commissioners Present: Becker; Bierly; Justman; Lightner; Marshall;

Mosser; Murphy; Wasserman.

Commissioners not Present: Gruber.

Staff Present: Grubb; Wolf.

Commissioner Moore appeared on the record at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 15, 1998.
(Becker/Marshall: 5-0)

V. Consideration of Appeals

A. 2471 Bryant St.

T001-26A

(cont. from 12/1/98)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,432.50 due to long-term habitability problems on the subject premises. The landlord failed to appear at the properly noticed hearing. On appeal, the landlord claims that he did not attend the hearing due to a family emergency. He also maintains that: the information provided by the tenant at the hearing was false; the lease states that the garage is the tenant's responsibility; the bedroom heater is not working because the tenants placed a large dresser in front of it; the carpet and walls were damaged by the tenant; and the tenant refused the owner access to the premises when he attempted to effectuate repairs.

After discussion, it was the consensus of the Board to continue consideration of this case to the meeting on January 5, 1999, in order for staff to contact the landlord and have him: explain and document the nature of the family



emergency, under penalty of perjury; and explain why the new property manager failed to appear in his stead. After discussion of the submission received from the landlord, it was the consensus of the Board to further continue this case in order to provide the landlord a final opportunity to explain the exact nature of the "emergency" that prevented his attendance at the hearing, including documentation, and under penalty of perjury.

B. 1750 Vallejo St. #201 & #406

T001-28 & -29R;
T001-37 thru -40R
(cont. from 12/15/98)

The landlords' petition seeking rent increases based on increased operating expenses and certification of capital improvement costs was granted, in part. Nineteen tenant appeals were granted and remanded for hearing on the following issues: to determine whether there were code violations in existence at the time of the noticed increase based on operating expenses; to clarify that Rules Section 6.12 does not require that notice to the landlord be in writing; and to give any tenants not originally allocated the costs of the new windows an opportunity to raise pertinent objections, if any. In her Decision on Remand, the hearing officer affirmed that the cost of the new windows shall be allocated to all units in the building, because of the weatherproofing benefits provided; rejected the argument that the amount of the passthrough for the new windows should be reduced because the replacement vinyl windows are less expensive because no evidence of such lower cost was provided; and found that the notices of rent increase based on increased operating expenses were issued subsequent to all code violations having been remedied. The tenants in unit #406 appealed the remand decision on the grounds that they failed to receive notice of the remand hearing and the tape recording of the hearing provided to them was unintelligible. They and the tenants in unit #201 again asserted that the windows ultimately received by the tenants cost less than the windows for which the passthrough was certified.

A motion was made to remand this case to adjust the amount of the window passthrough to reflect the lower cost of the vinyl windows for all nineteen tenants who appealed the original Decision of Hearing Officer. After discussion, it became clear that there was no voting majority, and the matter was therefore continued to the meeting on January 5, 1999.

Subsequent to the December 15th Board meeting, an additional four tenants filed appeals to the Decision on Remand on the issue of adjustment of the cost of the vinyl windows. The appeals were untimely filed because the tenants allegedly believed that an adjustment in the amount of the passthrough would be made for all tenants at a later date.

After discussion, as to the original two tenant appeals (T001-28 & -29R), the Board passed the following motion:

MSC: To deny the appeals. (Mosser/Lightner: 3-2; Becker, Marshall dissenting)

As to the four untimely appeals filed subsequent to the original appeals (T001-37R thru -40R), the Board passed the following motions:

MSC: To find good cause for the late filing of the appeals.
(Justman/Mosser: 5-0)

MSC: To deny the appeals. (Justman/Mosser: 3-2; Becker, Marshall dissenting)

C. 405 - 18th Ave.

T001-28A

(cont. from 12/15/98)

The tenant's petition alleging substantially decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,402.65 due to increased noise from a commercial unit downstairs and \$177.76 in reimbursement for increased PG&E bills during a period of construction in the building. On appeal, the landlord maintained that the tenant had failed to provide evidence that the alleged disturbance constituted a reduction in housing services, nor a violation of relevant noise ordinances; and that the removal of the loft that previously served as a sound barrier was required under the law and removed a fire hazard.

MS: To deny the appeal. (Becker/Marshall)

After discussion on the above motion, it became clear that there was no voting majority and the case was continued to the January 5, 1999 meeting. After discussion, the below two motions were made:

MSF: To deny the appeal. (Becker/Marshall: 2-3; Justman; Lightner; Mosser dissenting)

MSC: To accept the appeal and remand the case for a hearing to determine whether the level of noise is legally permissible; if so, then no rent reduction is warranted. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)

D. 315 Parnassus (Lower)

T001-29A

(cont. from 12/15/98)

The tenants' petition alleging a substantial decrease in housing services was granted, and the landlord was found liable to the tenants in the amount of \$1,624.00 due to the loss of storage space. The tenants had already been given a \$75.00 per month rent reduction by the landlord for loss of use of the garage, which the hearing officer determined to be sufficient compensation for this service. However, \$112.00 per month was granted for the additional loss of an adjacent room used for storage. On appeal, the landlord contended that she relied on an estoppel certificate filled out by the tenants and representations from the former owner that only the garage, and not the storage area, were included in the tenant's lease; and, since the tenants had paid no additional rent for use of the storage area, no rent reduction was warranted.

After discussion, due to the lack of a voting majority, this matter was continued to the next meeting.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Lightner, Mosser dissenting)

VI. Old Business

Costa-Hawkins (Civil Code Section 1953.54)

In conjunction with Deputy City Attorney Marie Blits, the Commissioners continued their discussion of issues associated with the implementation of the Costa-Hawkins Rental Housing Act of 1995. Ms. Blits walked the Commissioners through proposed amendments she had drafted to the Ordinance and Rules and Regulations and discussed questions of sequencing and specificity. As to the issue of rooms in a single family dwelling that are not separately alienable, but are rented out as separate rental units, Ms. Blits explained that definitions of "boarding houses" and "group homes" from the Planning Code are not totally on point. The Deputy Director pointed out the fact that the Rent Ordinance exempts "buildings" and "structures", whereas Costa-Hawkins talks about "units." Additionally, the exemption for Artist Live/Work units contained in Rules Section 1.17(g) adds a requirement that there be no residential tenancy between June 13, 1979 and the date of issuance of the Certificate of Occupancy, whereas Costa-Hawkins appears to mandate exemption if the Certificate of Occupancy was issued after February 1, 1995. The Tenant Commissioners reported that, as to the requirement that vacancy control be in effect when prior tenancies are terminated pursuant to 30-day notice or when there are long-standing health and safety violations on the premises, the tenant community feels that it would be appropriate to implement a scheme of vacancy decontrol-recontrol -- as San Francisco currently does not have vacancy control, the landlord would be entitled to set the initial rent, but rent stabilization would apply thereafter (as per the current state of the law for those units). The Commissioners also discussed whether or not "anniversary dates" will still apply: will the Board be enjoined only from restricting the rental rate, but not when that rate is established? Deputy City Attorney Blits will work on a new draft of proposed amendments to the Ordinance and Rules, incorporating the suggestions and consensus of the Commissioners, where one exists. This issue will be continued to the meeting on February 2, 1999.

V. Consideration of Appeals (cont.)

E. 3615 - 17th St.

T001-35 & -36R

The landlord's petition for certification of capital improvement costs was granted. The landlord had served notices of rent increase on October 27, 1997, stating that the effective date of the increase was "retroactive to October 1st." The hearing officer deemed the effective date of the notices to be November 27th. However, subsequent to the hearing, the landlord served new notices of rent increase with an effective date of August 1, 1998. On appeal, the tenants

maintain that the effective date of the increase in the Decision is incorrect. Additionally, one of the three roommates appeals the Decision on the grounds of financial hardship.

MSC: To accept the appeal filed by all three tenants and remand the case on the record to issue a correction as to the effective date of the rent increase. (Marshall/Becker: 5-0)

MSC: To deny the individual appeal filed on the grounds of financial hardship. (Lightner/Mosser: 4-1; Becker dissenting)

F. 1121 Masonic Ave. #6 & 9

T001-30A

Two tenant petitions alleging substantial decreases in housing services were granted and the landlord was found liable in the amounts of \$2,865.00 and \$3,091.80 due to serious habitability problems on the premises. Additionally, rent overpayments were determined and an annual increase was deferred for the tenant in one unit due to the landlord's failure to repair. On appeal, the landlord claims that: repairs and maintenance are performed on a continuing basis; no promise was made to reinstall the front gate to the premises, and the gate was not in a state of disrepair; there is no pest infestation of any kind in the building; the floors are wet only when they are being cleaned and mopped; the windows are tightly sealed; the tenant in unit #6 refuses to provide access to his unit; the only problems with the toilets are caused by the tenants; the tenants are in arrears on their rent payments; and the tenant making the majority of the allegations lied in a previous court case and is currently lying because he knows that the Rent Board will not conduct an inspection of the premises.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

G. 2211 Castro St.

T001-31R thru -34R

The landlords' petition for certification of capital improvement costs to the tenants in four units was granted, in part, resulting in a monthly passthrough in the amount of \$38.00. The tenants appeal the decision, asserting that: the landlords failed to provide adequate documentation in support of their petition; the work was in the nature of repair, rather than capital improvement; the landlords have previously submitted incorrect information to another City agency; the work was necessitated by the owners' deferred maintenance; and the petition should have been dismissed without hearing.

MSC: To deny the appeal. (Lightner/Mosser: 5-0)

VII. Communications

The Commissioners received the following communications:

A. Two newspaper articles and a Press Release concerning criminal prosecution by District Attorney Terrence Hallinan's Office of landlord George Hoffberg for multiple violations of the Rent Ordinance and other housing codes.

B. Two newspaper articles regarding the California Supreme Court decision in the case of Santa Monica Beach Ltd. v. Superior Court (S058723), which held that Santa Monica's rent control law did not constitute an unlawful "taking" because it had failed to achieve its stated purpose of alleviating a housing shortage.

C. A Memorandum from Executive Director Joe Grubb offering an alternative source for determining imputed interest rates for capital improvement costs pursuant to Rules and Regulations Section 7.14(b).

VIII. Director's Report

Executive Director Grubb discussed his Memorandum suggesting an alternative method for determining imputed interest rates for capital improvement costs pursuant to Rules and Regulations Section 7.14(b). Currently, the Board uses the rates for like years for Treasury Bills as posted on the last day of each January in the Wall Street Journal. However, as there is not always a figure available on this date, Mr. Grubb has identified a more reliable source (the Federal Reserve Statistical Release). Additionally, he suggests that the rate be determined at an earlier date, so that it could be posted concurrent with the posting of the annual allowable rent increase amount. The Commissioners concurred with Mr. Grubb's suggestions, and asked that he draft amendments to Rules Section 7.14 to be put out for Public Hearing on January 19th.

IX. Calendar Items

January 12, 1999 - NO MEETING

January 19, 1999

3 appeal considerations (1 cont. from 12/15/98)
6:00 Public Hearing: Amendments to Rules and Regulations Section 7.14

X. Adjournment

President Wasserman adjourned the meeting at 9:50 p.m.

City and County of San Francisco

Residential Rent Stabilization
and Arbitration BoardMERRIE T. LIGHTNER
PRESIDENTSHARON K. WASSERMAN
VICE-PRESIDENTLARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY J. JUSTMAN
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

January 8, 1999

WILLIE L. BROWN, JR.
MAYORJOSEPH GRUBB
EXECUTIVE DIRECTORNOTICE OF PUBLIC HEARING

DATE: January 19, 1999

TIME: 6:00 P.M.

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70 Lower Level
SAN FRANCISCO, CALIFORNIA

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JAN 11 1999

SAN FRANCISCO
PUBLIC LIBRARYPROPOSED AMENDMENTS TO SECTION 7.14,
THE RULES AND REGULATIONS

The Rent Stabilization and Arbitration Board Commissioners are proposing amendments to the language in Section 7.14 of the Rules and Regulations. This amendment proposes to change the source of rates and the calculation method used to determine imputed interest rates where the owner has used his/her own money. This amendment is being proposed because the indicators that form the basis for determining the imputed interest rates in the current legislation are not always specifically expressed for the designated period (February) each year. Because of the possibility that the use of another month as an indicator might have the same unfavorable results, a new, more reliable source for a Treasury instrument was sought that would offer similar results on a consistent basis.

This amendment proposes to use the rates as posted for Treasury Securities in the Federal Reserve Statistical Release, H.15, as found on the Federal Reserve Internet site. These rates appear to offer similar results to the current methodology being used yet on a more reliable and consistent basis, unlike the current use of Treasury Notes. Averaging the last 12 months of the most recently posted rates for seven and ten-year Securities eliminates the impact of an unusual spike or drop in the index were only one specific monthly rate to be utilized. Using the average of the last 12 months also appears to more accurately reflect the future trend in rates.

If approved at the Commission meeting on January 19, 1999, the department would use this methodology to determine the interest rates for the next 12 months beginning March 1, 1999. Those rates, if adopted, would be 5.3% for seven-year amortized costs and 5.3% for ten-year amortized costs. The current rates in effect through February 28, 1999 are 5.5% and 5.6%, respectively.

Written comments may be submitted prior to the hearing. Persons wishing to respond should do so by noon Friday January 15, 1999 to ensure that Commissioners have time to consider submissions. Oral testimony will also be taken on the 19th.

OVER, PLEASE



1 **PAGE 2**
2 **SECTION 7.14**

3 **Section 7.14(b)(2) and 7.14(b)(3) as Proposed:**

4
5 Section 7.14(b)(2) is being amended while 7.14(b)(3) is new.

6 **Additions are underlined while deleted text has been striked**
7 **through.**

8 (2) The first rate shall be the yield to maturity (i.e., the effective rate
9 of return) quoted on the last business day of January in the Wall Street Journal
10 for seven-year Treasury Notes average of the twelve most recent monthly rates
11 (rounded to the nearest tenth) that mature in February of the seventh year as
12 posted by the Federal Reserve on their Federal Reserve Statistical Release
13 Internet site for seven-year Treasury Securities and shall apply to certified
14 capital improvement costs amortized over a seven-year period in accordance
15 with Section 71.2(c).

16 The second rate shall be the yield to maturity quoted on the last business day of
17 January in the Wall Street Journal for ten-year Treasury Notes average of the
18 twelve most recent monthly rates (rounded to the nearest tenth) that mature in
19 February of the tenth year as posted by the Federal Reserve on their Federal
20 Reserve Statistical Release Internet site for ten-year Treasury Securities and
21 shall apply to certified capital improvement costs amortized over a ten-year
22 period in accordance with Section 71.2(c).

23 (3) These rates shall be calculated by December 15th of each year
24 using the average of the twelve most recent monthly rates posted by the Federal
25 Reserve for seven and ten-year maturity Treasury Securities as of this date.
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City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,
January 19, 1999
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

Fax Copy 1st Postcard 1/13/99
DOCUMENTS DEPT.

JAN 14 1999

SAN FRANCISCO
PUBLIC LIBRARY

I.	Call to Order	
II.	Roll Call	
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Consideration of Appeals	
	A. 1000 North Point St. #1103	T001-27R
		(cont. from 12/15/98)

The tenant appeals the dismissal of his petition due to lack of jurisdiction over the building, determined by the hearing officer to be a non-profit cooperative {Ordinance Section 37.2(r)(2)}.

B. 1939 Hayes St. #3 T001-41R

The landlord appeals the decision granting a rent increase based on the Past Rent History of a Proposition I Affected Unit, but determining rent overpayments.

C. 3150 Clay St. T001-31A

One tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

VI.	Public Hearing
6:00	Proposed Amendments to Rules and Regulations Section 7.14, Concerning Calculation of Imputed Interest on Capital Improvement Costs
VII.	Communications
VIII.	Director's Report
IX.	Old Business

- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization

and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN

PRESIDENT

19/99

POLLY MARSHALL

VICE-PRESIDENT

JOSEPH GRUBB

EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

I. Call to Order

JAN 28 1999

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:05 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Justman; Lightner;
Marshall; Moore; Mosser; Murphy;
Wasserman.

Commissioners not Present:

Mosser; Murphy.
Grubb; Wolf.

Staff Present:

Commissioner Gruber appeared on the record at 6:07 p.m.; Commissioner Marshall appeared at 6:10 p.m.; Commissioner Moore at 6:20 p.m.; and Commissioner Justman arrived at the meeting at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 5, 1999.

(Bierly/Becker: 3-0)

IV. Remarks from the Public

Landlord Dennis Breen pointed out what he believes to be an inconsistency in the way that Rent Board policy is applied: in a Decision of Hearing Officer, he was found liable to the tenant for a \$.01 overcharge due to "rounding-up", however, the annual allowable rent increase amount is "rounded down" (from 1.74% to 1.7%).

V. Consideration of Appeals

A. 1000 North Point St. #1103

T001-27R

(cont. from 12/15/98)

The tenant filed a petition alleging a substantial decrease in housing services, the landlord's failure to repair and an unlawful increase in rent. The petition was dismissed without hearing due to lack of jurisdiction because the hearing officer determined that the subject building is a non-profit cooperative owned, occupied and controlled by a majority of the residents (Ordinance Section

37.2(r)(2). On appeal, the tenant contended that: the building is subject to the jurisdiction of the Rent Board because it is not under the direct control of a majority of the cooperative residents; it is not occupied as required under the Articles of Incorporation; the rent for the unit may not be directly controlled or regulated by the corporation; and the landlord is not the corporation but, rather, individual shareholders who use their non-profit status to circumvent the Rent Ordinance.

Prior to the meeting, the tenant's representative had requested a 90-day extension in order to gather evidence to support the tenant's claim of Rent Board jurisdiction over the building. It was the consensus of the Board members in attendance to continue consideration of this case to the meeting on January 19, 1999, at which time the tenant's appeal should be complete and no further extensions would be granted. A submission was received at the Rent Board office on the morning of January 19th. Since the landlord's attorney indicated that he had not received it, it was not considered by the Board.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

B. 1939 Hayes St. #3

T001-41R

The landlords' petition for rent increases based on increased operating expenses and certification of capital improvement costs was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Lightner/Becker: 5-0)

C. 3150 Clay St.

T001-31A

The landlord's petition for a 15.2% rent increase based on the Past Rent History of a Newly Covered Unit under Proposition I was granted. However, the hearing officer determined overpayments owing from the landlord to the tenant in the amount of \$8,400.00 due to a rent increase from \$1,500 to \$1,850.00 in November 1996. On appeal, the landlord admits to "being unable to compute percentages", and claims to have imposed the wrongful amount on the advice of Rent Board staff; points out that the unit has been rented at a below market rent for quite some time; and the unlawful increase was the first rent increase in ten years.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

VI. Public Hearing

Proposed Amendments to Rules and Regulations Section 7.14
Concerning Calculation of Imputed Interest on Capital Improvement Costs

A Public Hearing on the issue of amending Rules and Regulations Section 7.14 was convened at 6:20 p.m. and concluded at 6:22 p.m., as only one member of the public was in attendance and asked a question. Currently, for determining the imputed interest rate for capital improvement costs, the Board uses the rates for like years for Treasury Bills as posted on the last day of January in the Wall Street Journal. However, as there is not always a figure available on that date, the Executive Director suggested that the Board instead use the Federal Reserve Statistical Release's listing of "Selected Interest Rates" for U.S. Treasury instruments called H.15. H.15 contains a wide variety of daily interest rates that are published weekly and are readily accessible through the Federal Reserve's Web site. The most recent 12 monthly interest rates for both seven and ten year Treasury Securities will be averaged and go into effect each March 1st, in order to coincide with the posting of the annual allowable rent increase rate.

MSC: To adopt the proposed amendments to Rules and Regulations Section 7.14 regarding the calculation of imputed interest on capital improvement costs, effective March 1, 1999.
(Becker/Marshall: 5-0)

The landlord Commissioners noted that their vote in favor of changing the calculation method was not an endorsement of the granting of imputed interest only, as opposed to previous regulations which allowed the legal rate of interest (10%) on all capital improvement costs. Commissioner Lightner expressed her belief that the current practice of allowing only the imputed interest rate when capital improvement work is financed with a variable rate loan is unfair. She will draft language to rectify this situation, and this issue will be calendared for the next Board meeting.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A letter from tenant Robert Copeland thanking the Board and staff for their efforts on his behalf in the eviction case against his landlord, George Hoffberg, including their referral of the landlord to the Office of the District Attorney.
- B. A letter from Attorney Nancy Lenvin objecting to the Board's policies with regard to calculation of imputed and variable interest on capital improvement costs.
- C. The office workload statistics for the month of November, 1998.

VIII. Director's Report

Executive Director Grubb went over the new copy of the Rent Ordinance which incorporates Proposition G, passed by the voters on the November ballot.

Proposition G replaces the prior version of Ordinance Section 37.9(a)(8) in its entirety. The major differences between Proposition G and the prior version of 37.9(a)(8) {inclusive of the Bierman amendments} are that the ownership interest required to evict reverts back to 25% instead of 50%; and only domestic partners are allowed to aggregate their ownership interests in order to achieve the requisite percentage. The Board also briefly questioned the Director about Supervisor Bierman's proposal to require that a Conditional Use Permit be obtained as a condition of an "Ellis" eviction for removal from the rental market.

IX. Old Business

Amendments to the Ordinance and Rules and Regulations pursuant to Costa-Hawkins (Civil Code Section 1954.53) will be discussed further with Deputy City Attorney Marie Blits at the meeting on February 2nd. After remaining Costa-Hawkins issues are resolved, the Board will begin to work on amendments to the Rules and Regulations necessitated by the passage of Proposition G.

X. Calendar Items

January 26, 1999 - NO MEETING

February 2, 1999

Old Business:

- A. Costa-Hawkins (Civil Code Section 1954.53)
- B. Interest Rate When Capital Improvement Work is Financed with a Variable Rate Mortgage

New Business: Budget

XI. Adjournment

President Wasserman adjourned the meeting at 7:00 p.m.

City and County of San Francisco



Residential Rent Stabilization

and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

February 2, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

Fax copy is posted 1/27/99
DOCUMENTS DEPT.

1/2/99
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

I.	Call to Order	JAN 28 1999
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Old Business	
	Costa-Hawkins (Civil Code Section 1954.53)	
VI.	Communications	
VII.	Director's Report	
IV.	Remarks from the Public (cont.)	
VIII.	New Business	
IX.	Calendar Items	
X.	Adjournment	

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN
PRESIDENT

2/99
Polly Marshall
VICE-PRESIDENT

Tuesday, February 2, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

FEB 16 1999

SAN FRANCISCO
PUBLIC LIBRARY

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:12 p.m.
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER II. Call to Order
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
Roll Call
Commissioners Present: Becker; Bierly; Gruber; Justman; Lightner;
Murphy; Wasserman.
Commissioners not Present: Marshall.
Staff Present: Grubb; Wolf.

Commissioner Mosser appeared on the record at 6:25 p.m.; Commissioner Moore arrived at 6:30 p.m.; and Commissioner Justman went off the record at 7:45 p.m.

III. Remarks from the Public

A tenant in the audience asked several questions regarding provisions of the Rules and Regulations pertaining to capital improvement passthroughs and rent increases based on increased operating expenses. He expressed his belief that a new owner should not be allowed to compare their expenses with those of a previous owner. A tenant stated that capital improvement passthroughs should be abolished, or split 50-50 between the landlord and tenant. She also suggested that a sign be put up on the Board's meeting room, so that it is easier for the public to find. Another tenant told the Board that she is overwhelmed by the prospect of defending against a capital improvement passthrough for a building of approximately 70 units.

IV. Old Business

Costa-Hawkins (Civil Code Section 1954.53)

The Board continued their discussion of issues associated with the implementation of the Costa-Hawkins Rental Housing Act of 1995, along with Deputy City Attorney Marie Blits. Ms. Blits went through the re-draft she had done of suggested amendments to the Rent Ordinance and proposed Rules and Regulations as the result of the Board's input at the January 5th meeting. Toward the end of the discussion, it appeared that the following issues remained unresolved: whether "anniversary dates" will still apply to units



otherwise exempt pursuant to Costa-Hawkins; how to treat rooms in a single family dwelling that are not separately alienable, but are rented out as separate rental units; the exemption for Artist Live/Work units contained in Rules Section 1.17(g), which adds a requirement that there had been no residential tenancy between June 13, 1979 and the date of issuance of the Certificate of Occupancy, whereas Costa-Hawkins appears to mandate exemption if the Certificate was issued after February 1, 1995; the issue of vacancy control or vacancy decontrol/recontrol when prior tenancies were terminated pursuant to 30-day notice or when there are long-standing health and safety violations on the premises; and the Sections of Costa-Hawkins that pertain to subletting and assignment, and how these relate to Rules and Regulations Section 6.14. It was suggested that the landlord and tenant communities each draft suggested language on certain of these issues; Ms. Blits graciously offered her assistance. Discussion of these matters will be continued at the Board meeting on March 16th or, at a Special Meeting on March 9th, if necessary.

V. Communications

The Board received the following communications:

- A. A letter from Ted Gullickson of the Tenants' Union advising the Board that the Tenants' Union disagrees with the interpretation from the Office of the City Attorney that the passage of Proposition G on the ballot changed the ownership interest required for owner-occupancy eviction back to 25% from the 50% requirement contained in the Bierman legislation; Rent Board staff will advise the public that there is a difference in interpretation on this issue.
- B. The office workload statistics for the month of November.
- C. A laudatory letter to the Mayor from a tenant who recently faced eviction, and received competent and professional assistance from several members of the Rent Board staff; and a follow-up letter from Executive Director Grubb to the counseling staff, thanking them for the exemplary service that they provide to the public.
- D. Legislation recently introduced by Supervisor Bierman that would require a Conditional Use Permit for the conversion of residential units in buildings of three or more units to non-rental use.

VI. Director's Report

Executive Director Grubb went over proposed budget enhancements for the fiscal year 1999-2000, due to the 79% increase in workload over the last 3 years. In order to reduce the current hearing backlog and provide more timely service to the public, Mr. Grubb is requesting one additional counselor position; four additional permanent hearing officer and three temporary hearing officer positions (two current temporary positions would be made permanent); and an additional Senior Hearing Officer position. In order to fund the new positions, a \$5.00 increase in the Rental Unit Fee would be required, but the fee would have

to be collected from the interest paid on the security deposit, and landlords would be allowed to "bank" the fee. There was a heated discussion of the mandatory deduction from security deposit interest requirement, as Commissioner Lightner felt strongly that landlords who were currently billing separately for the fee ought not to be penalized.

VII. New Business

Commissioner Lightner distributed a draft amendment to Rules and Regulations Section 7.14, which would allow a landlord an average of the interest rates actually paid and "reasonably foreseeable" future rates on a variable interest rate loan for capital improvement work, rather than restricting the landlord to the imputed interest rate, which is current policy. This issue will be discussed at the next Board meeting.

VIII. Calendar Items

February 9, 1999 - NO MEETING

February 16, 1999

7 appeal considerations (1 cont. from 1/5/99)

Old Business:

A. Interest Rate When Capital Improvement Work is Financed with a Variable Rate Mortgage

B. Rental Unit Fee

New Business: Discussion of Issues Possibly Warranting Amendments to the Ordinance and/or Rules and Regulations

IX. Adjournment

President Wasserman adjourned the meeting at 9:15 p.m.

City and County of San Francisco

Residential Rent Stabilization



and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

1/16/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 2471 Bryant St. T001-26A
(cont. from 1/5/99)

The landlord appeals the decision granting rent reductions due to decreased housing services.

B. 1201-07 46th Ave. T001-34A

The landlord appeals the decision determining rent overpayments.

C. 25 Ulloa St. T001-35A; T001-43R

The landlord and tenant appeal the decision granting rent reductions due to decreased housing services and determining that the tenant's right to sublet had been restored.

D. 1750 Franklin St. T001-32A

The landlord appeals the decision only partially granting certification of capital improvement costs.

E. 1730 Vallejo St. #1 T001-33A

The landlord appeals the decision granting a claim of decreased housing services because he maintains that he failed to appear at the hearing because he did not receive notice.

Tuesday, 6:00 p.m.,

February 16, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

AGENDA

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FEB 16 1999

SAN FRANCISCO
PUBLIC LIBRARY



F. 338 Jersey St.

T001-42R

The tenant appeals the decision granting a rent increase based on comparable rents.

G. 71 Sharon St.

T001-45R

The tenant appeals the dismissal for non-appearance of a petition alleging decreased housing services and the landlord's failure to repair.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

B. Rental Unit Fee

IV. Remarks from the Public (cont.)

IX. New Business

Discussion of Issues Possibly Warranting Amendments to the Ordinance and Rules and Regulations

X. Calendar Items

XI. Adjournment

City and County of San Francisco



16/99
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization

and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.

MAYOR

Tuesday, February 16, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT

FEB 26 1999

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:08 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II. Roll Call

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

SAN FRANCISCO
PUBLIC LIBRARY

Commissioners Present: Becker; Gruber; Lightner; Moore;

Wasserman.

Commissioners not Present: Bierly.

Staff Present: Wolf.

Commissioner Marshall appeared on the record at 6:10 p.m.;
Commissioner Mosser appeared at 6:16 p.m.; Commissioner Murphy
arrived at the meeting at 6:23 p.m.; and Commissioner Justman arrived at
7:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 19th and February 2, 1999.
(Becker/Gruber: 4-0)

IV. Remarks from the Public

A tenant asked several questions regarding provisions of the Rent Ordinance and Rules and Regulations pertaining to capital improvement passsthroughs and rent increases based on increased operating expenses, expressing his belief that the Board was "accomplishing their intent to unjustly enrich owners." The landlord involved in the case at 1201-07 46th Ave. (T001-34A) informed the Board that the tenant in the case does not drive nor own a car; therefore, the landlord requested that the Board give him back "jurisdiction" over the garage at the premises.

In accordance with Rules and Regulations Section 2.13(e), the Board passed the following motion:

MSC: To adopt a "3-Minute Speakers' Rule" for the "Remarks from the Public" portion of the Agenda. (Murphy/Gruber: 5-0)



V. Consideration of Appeals

A. 2471 Bryant St.

T001-26A

(cont. from 1/5/99)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,432.50 due to long-term habitability problems on the subject premises. The landlord failed to appear at the properly noticed hearing. On appeal, the landlord claims that he did not attend the hearing due to a family emergency. He also maintains that: the information provided by the tenant at the hearing was false; the lease states that the garage is the tenant's responsibility; the bedroom heater is not working because the tenants placed a large dresser in front of it; the carpet and walls were damaged by the tenant; and the tenant refused the owner access to the premises when he attempted to effectuate repairs.

After discussion, it was the consensus of the Board to continue consideration of this case to the meeting on January 5, 1999, in order for staff to contact the landlord and have him: explain and document the nature of the family emergency, under penalty of perjury; and explain why the new property manager failed to appear in his stead. After discussion of the submission received from the landlord, it was the consensus of the Board to further continue this case in order to provide the landlord a final opportunity to explain the exact nature of the "emergency" that prevented his attendance at the hearing, including documentation, and under penalty of perjury.

MSC: To accept the appeal and remand the case for a new hearing.
(Wasserman/Gruber: 3-2; Becker, Marshall dissenting)

B. 1201-07 46th Ave.

T001-34A

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$7,700.62. The landlord did not appear at the hearing and provides evidence on appeal that he was out of the country at the time. The landlord's claim on appeal is that the seemingly excessive rent increases were, in actuality, allocated to the garage, which was rented separately.

MSC: To accept the appeal and remand the case for a new hearing.
(Wasserman/Gruber: 5-0)

C. 25 Ulloa St.

T001-35A; T001-43R

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$3,565.72 due to various habitability problems on the premises. On appeal, the landlord claims that: it was not the landlord who decreased services but, rather, the conditions were caused by the tenants; the values placed on the

decreased services were arbitrary and without substantiation; factual evidence provided by the landlord was ignored; the tenants should have raised the instant claims in a prior petition before the Board; and the tenants refused to provide the landlord access to the premises. The tenants also appeal the hearing officer's determination that the landlord had properly restored the prior base rent amount because the tenants' right to sublet the premises had been reinstated, claiming that this issue was not properly before the hearing officer.

MSC: To deny both the landlord's and tenants' appeals.
(Lightner/Gruber: 5-0)

D. 1750 Franklin St.

T001-32A

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted, in part. The landlords appeal the denial of the costs of the installation of paint grade stucco medallions on the exterior bays of the windows and window shutters because the hearing officer found these items to not constitute capital improvements. On appeal, the landlord asserts that these amenities enhance the character and charm of the building, making the rental income go up and therefore increasing the value of the building, which by definition makes them capital improvements.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

E. 1730 Vallejo St. #1

T001-33A

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$280.00 (\$40.00 per month) for fumes emanating from garbage cans one floor below her window. The landlord failed to appear at the hearing and alleges on appeal that his agent, the resident manager, did not receive notice of the hearing.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Moore/Wasserman: 5-0)

MSC: To accept the appeal and remand the case for a new hearing with the recommendation that the parties settle this matter with the assistance of the hearing officer. (Lightner/Gruber: 5-0)

F. 338 Jersey St.

T001-42R

The landlord's petition for a rent increase based on comparable rents was granted, resulting in a rent increase from \$350.00 to \$1,050.00 per month. The tenant, who is the grandson of the prior owner of the building, appeals the decision on the grounds of financial hardship; alleges that the hearing officer failed to consider that housing services have been reduced; and avers that the condition of the unit is "poor" instead of "fair."

MSF: To deny the appeal. (Gruber/Lightner: 2-3; Becker, Marshall, Wasserman dissenting)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

G. 71 Sharon St.

T001-45R

The tenant's petition alleging decreased housing services and the landlord's failure to repair was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims to have faxed a request for postponement prior to leaving the country.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 5-0)

VI. Communications

The Commissioners received correspondence concerning cases on the calendar.

VII. Old Business

A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

The Board continued their discussion of amending Rules and Regulations Section 7.14 in order to allow landlords an interest rate more commensurate with the cost of their financing when they take out a variable rate loan for capital improvement work, rather than restricting them to the imputed interest rate, which is current policy. Drafts authored by Commissioners Lightner and Marshall were discussed and will be re-drafted for discussion at the next meeting.

B. Rental Unit Fee

The Deputy Director reported that Executive Director Grubb was invited to speak at a meeting of the Coalition for Better Housing (C.B.H.) regarding the requested increase in the Rental Unit Fee in order to fund the additional staff positions needed to handle the greatly increased workload. A vote was taken and a majority of those present endorsed the increase in the fee from \$10.00 to \$15.00, with the provision that the fee would have to be collected from the interest paid by the landlord on the security deposit. Commissioner Mosser, who was in attendance at the C.B.H. meeting, advised the Deputy Director of an alternate proposal, wherein landlords who are current in payment of security deposit interest would be allowed to continue to bill separately for the Rental Unit fee.

IV. Remarks from the Public (cont.)

The landlord in the case concerning 25 Ulloa St. (T001-35A) inquired as to whether the Board continues to have jurisdiction after a tenant vacates the premises.

VIII. New Business

In order to conform the Rent Ordinance to the requirements of the Costa-Hawkins legislation, the Rent Board will be going to the Board of Supervisors with a package of suggested amendments. Therefore, Commissioner Gruber asked that the Deputy Director re-issue a list of issues that may warrant amendments to the Ordinance and/or Rules and Regulations. After a brief discussion, it was agreed that this issue will be continued to the next meeting.

IX. Calendar Items

February 23, 1999 - NO MEETING

March 2, 1999

8 appeal considerations

Old Business:

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Rental Unit Fee
- C. Discussion of Issues Possibly Warranting Amendments to the Ordinance and Rules and Regulations

March 9, 1999 - NO MEETING

X. Adjournment

President Wasserman adjourned the meeting at 8:17 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

1/2/99

Tuesday, 6:00 p.m.,

March 2, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

FEB 26 1999

SAN FRANCISCO
PUBLIC LIBRARY

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER

BARTHOLOMEW MURPHY NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 647 Capp St. T001-39A

The landlords appeal the decision granting rent reductions due to decreased housing services.

B. 226 Irving St. #2 T001-38A

The landlord appeals the remand decision granting claims of decreased housing services and failure to repair.

C. 260 Carl St. #1 T001-37A

The landlord appeals the remand decision setting the value of basement storage space and determining rent overpayments.

D. 2210 Jackson St. #703 T001-40A

The landlord appeals the decision granting a claim of decreased housing services.

E. 125 Buckingham Way #201 T001-44R

The tenant appeals the denial of her petition alleging an unlawful increase in rent pursuant to Rules and Regulations Section 6.14.

F. 858 Greenwich St. T001-36A



The landlord appeals the decision denying his petition for rent increase based on comparable rents:

G. 120 Langton St. T001-47R

The tenants appeal the decision only partially granting their claims of decreased housing services.

H. 3250 Market St. #3 T001-46R

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds that the landlord failed to make requested repairs.

VI. Communications

VII. Director's Report

VIII. Old Business

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Rental Unit Fee
- C. Issues Possibly Warranting Amendments to the Ordinance and Rules and Regulations

IV. Remarks from the Public (cont.)

Note: The "3-Minute Speakers' Rule" contained in Rules and Regulations Section 2.10(e) shall apply to this portion of the Agenda.

IX. New Business

X. Calendar Items

XI. Adjournment

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization

and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

Tuesday, March 2, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

I. Call to Order

MAR 11 1999

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:15 p.m. SAN FRANCISCO
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER II.
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Bierly; Lightner; Marshall; Moore;
Moser; Murphy; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:19 p.m.; Commissioner Justman arrived at the meeting at 7:25 p.m.; Commissioners Lightner and Murphy went off the record at 7:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 16, 1999.
(Marshall/Lightner: 5-0)

IV. Consideration of Appeals

A. 647 Capp St.

T001-39A

The landlords' petition for certification of the costs of a central heating system was granted, resulting in a monthly capital improvement passthrough in the amount of \$59.11. The tenants' petition alleging decreased housing services for the period of time they were without heat was also granted, and the landlords were found liable to the tenants in the amount of \$3,850.00. On appeal, the landlords allege that: the landlord did not have constructive notice of the heat deficiency because the landlords themselves had resided in the unit and found the heat to be sufficient; the tenants did not provide long-term oral notice of the problem; and, since the central heating system was installed 7 months after the tenants' first complaint, the landlords responded in a timely manner.

MSC: To accept the appeal and remand the case to the hearing officer on the record to commence the rent reduction from the time of the first actual notice to the landlord, in April, 1995.
(Wasserman/Marshall: 3-2; Mosser, Lightner dissenting)

B. 226 Irving St. #2

T001-38A

The tenants' petition alleging substantial decreases in housing services and the landlord's failure to repair was granted. The landlord was found liable to the tenants in the amount of \$3,200.00 and an annual rent increase was deferred due to code violations on the premises. The landlord had not appeared at the original hearing and, on appeal, alleged that she had not received notice. The appeal was accepted and the case was remanded for a new hearing. In the Decision on Remand, the landlord was found liable to the tenants in the amount of \$4,315.00 and the rent increase continued to be deferred. The landlord appeals the remand decision on the grounds that: there is insufficient evidence to support the decision; and that the conditions have all been abated.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

C. 260 Carl St. #1

T001-37A

The tenants' petition alleging unlawful increases in rent and claiming that the landlord was attempting a reduction in housing services was granted and the landlord was found liable to the tenants for rent overpayments in the amount of \$564.40. Additionally, if basement storage space were taken away, a rent reduction in the amount of \$216.00 was ordered. The landlord's appeal of the decision was granted and the case was remanded only on the value of the storage space. Due to additional information regarding the tenants' rent history furnished by the landlord, in the Decision on Remand, the landlord was found liable for rent overpayments in the amount of \$4,753.16; the value of the storage space was determined to be \$106.40 per month. The landlord appeals the remand decision, asserting that: at the remand hearing, the hearing officer improperly refused to consider evidence regarding the tenants' alleged unilateral improper alteration of the use of the storage space; the hearing officer abused her discretion by reopening the issue of the tenants' rent history, which was not part of the Board's motion on appeal, and which violated the due process rights of the landlord; the tenants failed to disclose their rent history on an estoppel certificate requested by the landlord and should, therefore, be estopped from recovery now; and the penalty is disproportionate to the errors made by a prior landlord.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

D. 2210 Jackson St. #703

T001-40A

The tenants' petition alleging decreased housing services due to long-term, serious leaks into the dining area of their apartment was granted, and the landlord was found liable to the tenants in the amount of \$7,750.00 (\$250.00 per month). On appeal, the landlord maintains that, rather than the twenty-two month period determined in the Decision of Hearing Officer, the water infiltration problems existed for only eight months at most; the monthly rent reduction

should be reduced for the period when the unit experienced mold and mildew problems, but not water infiltration; there were periods after the unit had been repainted and before the next rainy season when there were no problems; and the landlord responded in a timely fashion, but it was difficult to locate the source of the problem.

Two voluminous submissions were received from the landlord's attorney on the Friday preceding and on the day of the Board meeting. Since the tenants had not had a chance to respond, the Board passed the following motion:

MSC: To continue this matter to the meeting on April 6, 1999 in order to give the tenants a chance to respond to the landlord's late submissions. (Wasserman/Gruber: 5-0)

E. 125 Buckingham Way #201

T001-44R

The tenant's petition alleging an unlawful increase in rent was denied. The hearing officer found that, although the tenant had resided in a unit at the Stonestown apartment complex since 1996, she did not do so with the landlord's express or implied consent. On appeal, the tenant claims that the management at Stonestown knew or should have known that she was living in the subject unit, as evidenced by many maintenance requests she had made and the fact that she sometimes paid rent to the landlord with her own check. The tenant asserts that, since the landlord failed to give her a notice pursuant to the provisions of Rules and Regulations Section 6.14 within 60 days of becoming aware of her presence on the premises, they waived the absolute prohibition against subletting and assignment in the lease and acquiesced to her tenancy.

MSC: To recuse Commissioner Bierly from consideration of this appeal. (Lightner/Marshall: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Becker dissenting)

F. 858 Greenwich St.

T001-36A

The landlord's petition for a rent increase based on comparable rents was denied because the hearing officer found that the landlord had failed to prove that the rent was set and kept low due to a "special relationship" between the landlord and the tenant; and that the two-bedroom units used for comparison by the landlord were not comparable to the tenant's one-bedroom unit. On appeal, the landlord claims that: the Decision of Hearing Officer contains numerous errors of fact and mischaracterizations of testimony and evidence; the hearing officer exhibited bias toward the tenant; the tenant committed perjury at the hearing and, therefore, should not be considered credible; the subject unit contains six, rather than five, rooms; and the Board does not provide nor apply consistent standards and/or guidelines regarding what constitutes "comparable" units.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

G. 120 Langton St.

T001-47R

The tenants' petition for rent reductions due to decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$300.00 for a 6-month period during which their use of the garden area was severely curtailed. As to the loss of a storage room behind the garage, the hearing officer found that the tenants had been sufficiently compensated by the \$125.00 per month rent reduction proffered by the landlords, which was the amount the tenants had been paying for use of the space since 1990. On appeal, the tenants appear to allege that the hearing officer took unsubstantiated statements by the landlords as fact; and that the landlords did not re-claim the storage space for their own use, since the building was in the process of being sold.

MSC: To recuse Commissioner Moore from consideration of this appeal. (Becker/Lightner: 5-0)

MSC: To deny the appeal. (Becker/Lightner: 5-0)

H. 3250 Market St. #3

T001-46R

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses to the tenants in three units was granted. One tenant appeals the decision on the grounds that the landlord has failed to perform requested repair required by law, and provides a Notice of Violation from the Department of Building Inspection in support of his appeal.

MSC: To accept the appeal and remand the case for a new hearing only on the issue of whether the landlord had failed to perform requested repairs pursuant to Rules and Regulations Section 6.12(a). (Marshall/Becker: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of an article in The Independent newspaper concerning legislation introduced at the Board of Supervisors that would require an owner to obtain a conditional use permit from the Planning Commission before removing housing from the rental market.

VI. Old Business

Interest Rate When Capital Improvement Work is Financed with a Variable Rate Mortgage

The Board continued their discussion of the above topic. Senior Hearing Officer Sandra Gartzman appeared, and provided the Commissioners with material from several cases in which landlords had paid for capital improvement work

with several different credit cards; and discussed situations where a landlord pays off the outstanding balance before the amortization period has expired or refinances at a lower rate of interest than that which is approved pursuant to the petition. Discussion of these issues will be continued to the meeting on March 30, 1999.

VII. Remarks from the Public

The landlord in the case at 3250 Market Street #3 (T001-46R) went over the history of the tenancy and explained the nature of the terraced roof work performed. The landlord in the case concerning 647 Capp Street (T001-39A) expressed his belief that the heater in the unit was sufficient, and maintained that the tenant's petition was only filed in response to the landlord's petition for certification of the costs of the new heater.

VIII. Calendar Items

March 9, 1999 - NO MEETING

March 16, 1999

Old Business: Costa-Hawkins (Civil Code Section 1954.53)

IX. Adjournment

President Wasserman adjourned the meeting at 8:00 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

MERRIE T. LIGHTNER
PRESIDENT

Tuesday, 6:00 p.m.,
March 16, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

Fax Corp 1st Pasted 3/11/99
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6/99
and
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY J. JUSTMAN
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

AGENDA

MAR 12 1999

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations
members of the public shall be limited to comments of no more than
3 minutes' duration.

- V. Old Business
 - Costa-Hawkins (Civil Code Section 1954.53)
 - Rent Board Fee
 - Rules and Regulations Section 7.14
- VI. Communications
- VII. Director's Report
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations
members of the public shall be limited to comments of no more than
3 minutes' duration.

- VIII. New Business
- IX. Calendar Items
- X. Adjournment



City and County of San Francisco

Residential Rent Stabilization

and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.

MAYOR



SHARON K. WASSERMAN
PRESIDENT

16/99

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, March 16, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:09 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||. Roll Call

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioners Present: Becker; Bierly; Gruber; Justman; Lightner;
Marshall; Wasserman.

Commissioners not Present: Moore; Mosser; Murphy.
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

DOCUMENTS DEPT.

MSC: To approve the Minutes of March 2, 1999.
(Lightner/Gruber: 5-0)

MAR 26 1999

IV. Old Business

SAN FRANCISCO
PUBLIC LIBRARY

A. Costa-Hawkins (Civil Code Section 1954.53)

The Board continued their discussion of issues associated with the implementation of the Costa-Hawkins Rental Housing Act of 1995. The Commissioners went through a re-draft of suggested amendments to the Rent Ordinance prepared by Deputy City Attorney Marie Blits as the result of the Board's discussions at the meetings on January 5th and February 2nd, 1999. The Board re-visited the issues of vacancy control or vacancy decontrol/recontrol when prior tenancies were terminated pursuant to 30-day notice or when health and safety code violations remained unabated for 6 months or longer preceding a vacancy that occurred proximate to the exemption date of January 1, 1999; and discussed which provisions of Costa-Hawkins pertaining to assignment and subletting affect San Francisco's Ordinance and Rules and Regulations, particularly Rules Section 6.14. As to the question of how to treat rooms in a single family dwelling that are not separately alienable, but are rented out as separate rental units, the consensus of the Board was that once there are 3 separate tenancies, not including the owner, the premises are no longer exempt as a single family dwelling or condominium. In the event that the number of separately rented rooms should fall below 3, any tenants who had resided on the premises when there were 3 separately rented units would continue to be covered. However, if such a unit were vacant, it would be



exempt from rent control until such time as 3 rooms were separately rented. It was agreed that only an owner, and not a Master Tenant, could claim exemption pursuant to Costa-Hawkins.

As to the question of whether the concept of "anniversary dates" will still apply to units that are otherwise exempt from rent increase limitations pursuant to Costa-Hawkins, the Board passed the following motion:

MSC: To find that the concept of "Anniversary Date" as defined in Rules and Regulations Section 1.11 shall not apply to units exempt from rent increase limitations pursuant to Costa-Hawkins; landlords of such units shall not be limited to "annual" rent increases. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

The Deputy Director will forward changes agreed upon by the Board to Ms. Blits for incorporation into a new draft; this issue and discussion of proposed amendments to the Rules and Regulations will be re-calendared for a future meeting.

B. Rental Unit Fee

Executive Director Grubb informed the Commissioners that the proposed increase in the Rental Unit Fee necessitated by the 85% increase in workload over the last 3-year period will be \$16.00 per unit; \$8.00 per residential hotel unit. The fee increase will fund the following positions: 4 Permanent Hearing Officers; 3 Temporary Hearing Officers; 1 Permanent Senior Hearing Officer; 3 Permanent Citizens' Complaint Officers; and 1 City Attorney Investigator to assist with investigation and monitoring of complaints of wrongful eviction. The fee will be deducted from the interest due on the tenant's security deposit; landlords who are current in the payment of such interest will be allowed to continue to bill separately for collection of the fee. Landlords will be able to "bank" the fee, just as they are allowed to "bank" the annual allowable rent increase.

V. Communications

The Board received a copy of an article from The Independent of March 16, 1999 regarding a lawsuit being filed by property owners challenging the constitutionality of Proposition G and recently enacted legislation requiring a Conditional Use Permit for conversion to non-rental use, including owner-occupancy, in buildings containing 3 or more units.

VI. Calendar Items

March 23, 1999 - NO MEETING

March 30, 1999

9 appeal considerations
Old Business:

- A. Interest Rate When Capital Improvement Work is Financed with a Variable Rate Mortgage
- B. Issues Possibly Warranting Amendments to the Ordinance and Rules and Regulations

New Business: Proposed Amendment to Rules Section 1.17 Regarding Non-Residential Use of a Unit

VII. Adjournment

President Wasserman adjourned the meeting at 9:05 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accomodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accomodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designate to coordinate and carry out this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554.9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

30/99

Tuesday, 6:00 p.m.,
March 30, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

MAR 26 1999

SAN FRANCISCO
PUBLIC LIBRARY

- V. Consideration of Appeals

A. 36 Divisadero St. T001-43A

The landlord appeals the decision determining rent overpayments.

B. 1582 - 22nd Ave. T001-42A

The landlord appeals the decision denying a rent increase based on comparable rents but determining rent overpayments.

C. 3374 - 22nd St. T001-41A

The landlord appeals the decision granting claims of decreased housing service and unlawful rent increases.

D. 2301 Broadway #101 T001-48R

One tenant appeals the decision certifying capital improvement costs on the basis of financial hardship.

E. 743 Silliman St. T001-44A

The landlord appeals the decision granting claims of decreased housing services.

F. 95 Grandview Ave. #3 T001-46A



The landlord appeals the decision granting a claim of unlawful rent increase.

G. 730 Stockton St. #43

T001-45A

The landlord appeals the decision determining rent overpayments due to the failure to discontinue a capital improvement passthrough.

H. 2450 Lake St. #2

T001-49R

The tenant appeals the decision certifying capital improvement costs.

I. 909 Geary St. #608

T001-50R

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Issues Possibly Warranting Amendments to the Ordinance and Rules and Regulations

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

Proposed Amendment to Rules Section 1.17 Regarding Non-Residential Use of a Unit

XI. Calendar Items

XII. Adjournment

CITY AND COUNTY OF SAN FRANCISCO



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

RESIDENTIAL RENT STABILIZATION

AND ARBITRATION BOARD

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

Tuesday, March 30, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

DOCUMENTS DEPT

APR 07 1999

SAN FRANCISCO
PUBLIC LIBRARY

LARRY BEACH BECKER Vice-President Marshall called the meeting to order at 6:07 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present: Lightner; Marshall; Moore; Mosser;
Murphy.

Commissioners not Present: Becker; Bierly; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:09 p.m.; Commissioner Justman arrived at 6:12 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 16, 1999.
(Lightner/Mosser: 4-0)

IV. Consideration of Appeals

A. 36 Divisadero St.

T001-43A

The tenant's petition alleging unlawful rent increases was granted and the landlord of this Proposition I Affected Unit was found liable to the tenant in the amount of \$7,858.00. On appeal, the landlord asserts: that the increase was lawful at the time it was given; that it was issued prior to the retroactive rollback provisions of Proposition I; and that it is an impermissible penalty to declare a rent increase invalid if it was proper at the time of service of the notice of rent increase.

Since the landlord attorney's brief had not been mailed to the tenants in time for them to respond, consideration of this case was continued to the next meeting.

B. 1582 - 22nd Ave.

T001-42A

The landlords' petition for rent increase based on comparable rents was denied because the hearing officer found that the landlords had not proved that they had set the rent for the unit very low due to a special relationship they had with



the tenants. Additionally, the landlords was found liable to the tenants in the amount of \$3,138.00 due to unlawful rent increases. On appeal, the landlords claim that the hearing officer: erred in her calculation of rent overpayments in that Rules Section 1.12(b) permits a 4% increase, rather than 1.6%, during the time period in question; erred in finding that the rent was not set and kept low; should have taken into account capital improvements made to the property; gave no weight to the special relationship between the landlords and the tenants; ignored objective evidence regarding the condition of the premises, believing the tenants without support; was biased against the landlord and issued a decision not consistent with prior decisions of the Board. The landlord also asserts that the Board should have provided the landlord with a "mandatory landlord hardship petition."

MSC: To accept the appeal and remand the case to the hearing officer in order to properly apply Rules and Regulations Section 1.12(b); and to consider the landlord's allegation that this is a furnished unit in the comparables analysis. A hearing will be held only if necessary. (Lightner/Gruber: 5-0)

C. 3374 - 22nd St.

T001-41A

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$5,441.00 due to habitability defects on the premises. Additionally, a rent increase based on the landlord's contention that no original tenants continued to reside in the unit was found to be null and void, and the landlord was found liable for rent overpayments in the amount of \$4,500.00. The landlord appeals the decision, claiming that: the hearing officer exhibited bias against the landlord and granted rent reductions that were excessively punitive; the problem with the doorbell buzzer was the result of one of the tenants' having cut the wires, which should impeach the credibility of that tenant and her claim to being an "original tenant"; the tenants contacted the Dept. of Building Inspection in retaliation for the landlord's having issued a 6.14 notice and subsequent rent increase; there should have been greater consideration given to the landlord's medical condition; the handrail on the stairs was removed without the landlord's knowledge or consent, and constructive notice should not be imputed since the stairs in question are located at the rear of the building; and the tenants' notice to a court-appointed receiver of the problem with the defective thermostat on the heater should not be imputed to them, because a receiver is an agent of the courts, and not the owners.

MSC: To recuse Commissioner Lightner from consideration of this case. (Mosser/Gruber: 5-0)

MSF: To deny the appeal. (Marshall/Moore: 2-3; Gruber, Justman, Murphy dissenting)

MSC: To accept the appeal and remand the case to the hearing officer only on the issue of the rent reductions for the heater

and handrail: the amounts granted shall only apply to tenant(s) who were in residence during the period of time the services were decreased, based on the length of time they were on the premises and the proportion of the rent that they paid.
(Justman/Murphy: 4-1; Moore dissenting)

D. 743 Silliman St.

T001-44A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$4,535.00 due to serious habitability problems on the premises. On appeal, the landlord claims that she did not appear on the hearing because she had two deaths in the family, and asks for an opportunity to present her side of the story.

MSC: To accept the appeal and remand the case for a new hearing.
(Lightner/Gruber: 5-0)

E. 95 Grandview Ave. #3

T001-46A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$1,398.84. On appeal, the landlord claims that, since he refunded the actual amount of the overcharge, it is unfair that a year later the entire amount of the increase was found to be null and void; that, when she agreed to pay an additional \$15.00 for permission to have a cat, the tenant had also agreed that the rent dispute was resolved; there is an error in the decision regarding the amount of the rent; and the overcharge was an honest mistake, because the allowable annual increase had been 4% for so many years.

MSC: To deny the appeal except to correct the amount owing from the landlord to the tenant to \$1,276.12 due to the tenant having vacated the unit prior to issuance of the decision.
(Marshall/Justman: 5-0)

F. 730 Stockton St. #43

T001-45A

The tenant's petition alleging unlawful rent increases due to the landlord's failure to discontinue a capital improvement passthrough and the inclusion of such passthrough in the calculation of annual rent increases was granted and the landlord was found liable to the tenant in the amount of \$3,134.92. On appeal, the landlord claims that: the tenant failed to meet his burden of proof, in that he provided only canceled checks in support of his petition, and not the actual notices of rent increase; the tenant lacks credibility in that he has lied or failed to submit evidence not favorable to his claim; the three-year limitation on the refund of rent overpayments should also apply to failure to discontinue a capital improvement passthrough; there are calculation errors in the decision and the landlord is being penalized twice for the same mistake; and the hearing officer has exhibited bias against the landlord.

MSC: Based on the facts of this case only, to accept the appeal and remand the case to the hearing officer on the record to find that the rent increase given in September, 1990 is not null and void if the total amount of the rent increase does not exceed the total of the prior base rent times the actual percentage rent increase given plus the capital improvement passthrough, even if the notice is technically defective.

(Lightner/Gruber: 4-1; Moore dissenting)

G. 2450 Lake St. #2

T001-49R

The landlord's petition for certification of capital improvement costs for five of six units was granted, resulting in a passthrough in the amount of \$26.48 per month. One tenant appeals the decision on the grounds that the costs should not have been equally allocated to all units in the building, because some units are larger than others; and claiming that he should have been allowed to examine the landlord's original documents, since the copies submitted could have been falsified.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

H. 909 Geary St. #608

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the residential hotel tenant claims that his mail has been stolen, and submits a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and schedule the case for a new hearing.
(Lightner/Gruber: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the office workload statistics for the month of February.

VI. Director's Report

Executive Director Grubb reminded the Commissioners that the Form 730 Statement of Economic Interests are due to the Ethics Commission on April 1st.

VII. Calendar Items

April 6, 1999

8 appeal considerations (1 cont. from 3/30/99)
Old Business: Non-Residential Use of a Unit

April 13, 1999 - NO MEETING

VIII. Adjournment

Vice-President Marshall adjourned the meeting at 8:00 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT WILLIE L. BROWN, JR. STABILIZATION & ARBITRATION BOARD, MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT
/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,
April 6, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

*Fax copy 1st posted 4/2/99 per
DOCUMENTS DEPT.*

I.	Call to Order	APR 07 1999
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Consideration of Appeals	

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A.	36 Divisadero St.	T001-43A (cont. from 3/3/99)
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The landlord appeals the decision determining rent overpayments for this Proposition I Affected Unit.

B.	625 Powell St. #43, 32 & 34	T001-51 thru -53R
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Three tenants appeal the decision granting rent increases based on increased operating expenses.

C.	1600 Clement St. #303	T001-47A
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The landlord appeals the decision granting rent reductions due to decreased housing services.

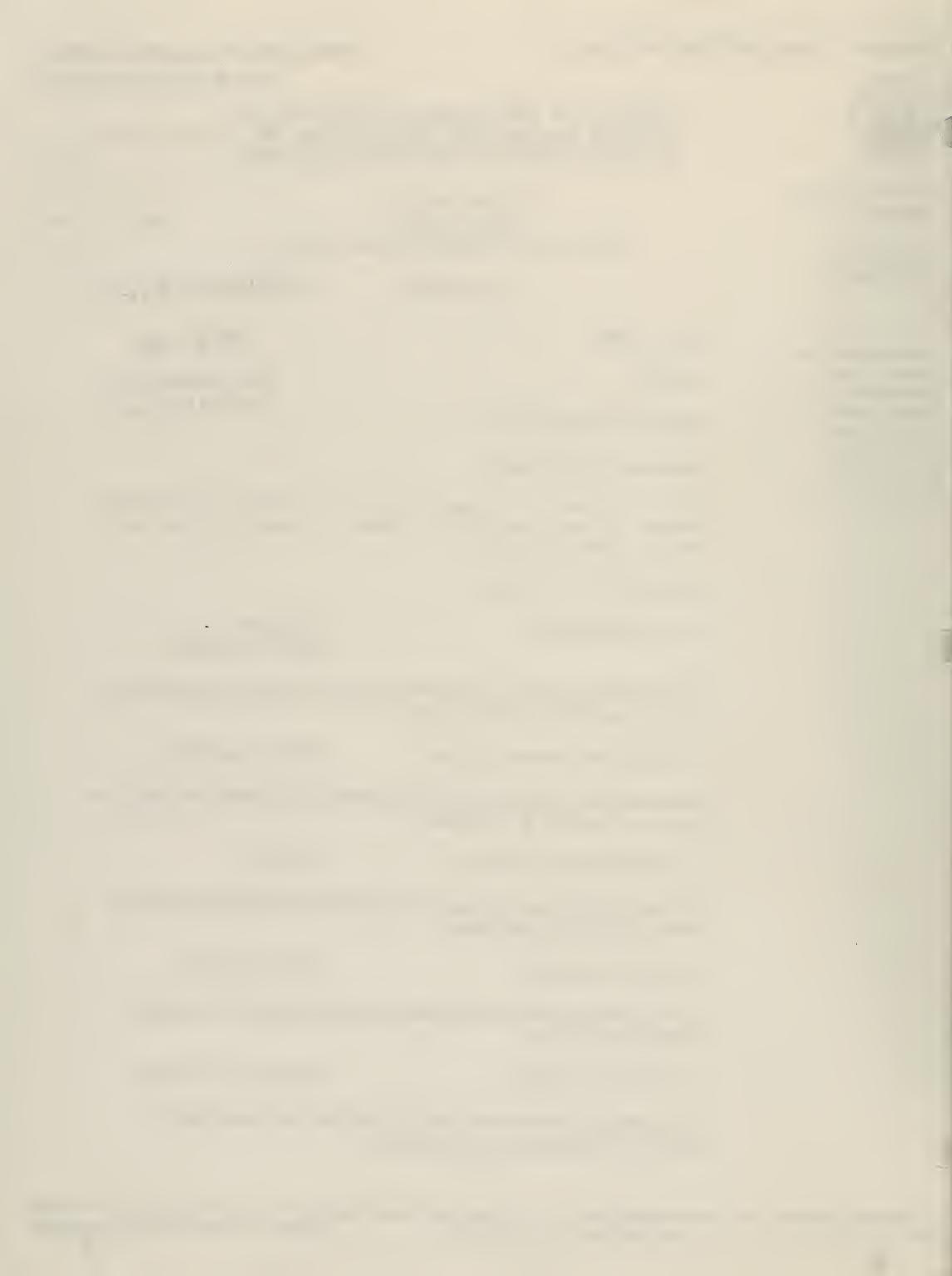
D.	295 Monterey St.	T001-54 & -55R
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Two tenants appeal the decision granting certification of capital improvement costs.

E.	660 Bush St. #503	T001-48A; T001-59R
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The landlord and tenant appeal the decision partially granting claims of decreased housing services.





F. 534 Broadway

T001-60R

The tenant appeals the dismissal of his petition alleging decreased housing services due to lack of jurisdiction.

G. 1018 Tennessee St.

T001-49A

The landlord appeals the decision partially granting certification of capital improvement costs.

H. 452 Castro St. #5

T001-61R

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

Proposed Amendment to Rules Section 1.17 Regarding Non-Residential Use of a Unit

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, April 6, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:12 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Bierly; Justman; Lightner;

Wasserman.

Commissioners not Present: Gruber; Marshall.

Staff Present:
Wolf.

Commissioner Mosser appeared on the record at 6:15 p.m.; Commissioner Moore arrived at the meeting at 6:50 p.m.; and Commissioner Murphy appeared at 7:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 30, 1999.
(Becker/Lightner: 4-0)

IV. Remarks from the Public

Simon Lambert, a tenant involved in the appeal concerning 625 Powell Street (T001-51R), asked the Board to consider whether provisions for rent increases based on the debt service of a recent purchaser should apply when the prior landlord owned the building free and clear.

V. Consideration of Appeals

A. 36 Divisadero St.

T001-43A

(cont. from 3/30/99)

The tenant's petition alleging unlawful rent increases was granted and the landlord of this Proposition I Affected Unit was found liable to the tenant in the amount of \$7,858.00. On appeal, the landlord asserts: that the increase was lawful at the time it was given; that it was issued prior to the retroactive rollback provisions of Proposition I; and that it is an impermissible penalty to declare a rent increase invalid if it was proper at the time of service of the notice of rent increase.



MSC: To accept the appeal and remand the case for a hearing to consider any equitable issues.
(Lightner/Mosser: 4-1; Bierly dissenting)

B. 625 Powell St. #43, 32 & 34

T001-51 thru -53R

The tenant in unit #32 filed an appeal five days late because she assumed that, if the appeal filed by the tenants in unit #43 was granted, the results would apply to her unit as well. The tenant in unit #34 filed an appeal one day late because he allegedly calculated the filing deadline from the time of the postmark, instead of the Proof of Service.

MSC: To find good cause for the late filing of the appeals.
(Becker/Bierly: 5-0)

The landlord's petition for rent increases based on increased operating expenses was granted, resulting in 7% base rent increases to the tenants in 15 units. Three tenants appeal the decision, asserting that: the debt service category should not be considered because it was voluntary, and not used to finance capital improvement work and creates exaggerated results; the prior owner's having financed the building entirely with equity should be factored in as a lost opportunity cost; the landlord's attribution of zero expense to the Year One management category evidences bad faith; and it is possible that the provisions of Rules Section 6.10(f) ("the anti-speculation clause) apply to the facts of this case.

MSC: To accept the appeal and remand the case to the hearing officer to determine whether Rules and Regulations Section 6.10(f), the "anti-spec clause", is applicable to this case; a hearing will be held only if necessary. (Becker/Bierly: 5-0)

C. 1600 Clement St. #303

T001-47A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$5,812.50 due to serious leaks on the premises that the landlord had known about since the inception of the tenancy. On appeal, the landlord asserts that the amount of \$375.00 per month whether or not it is raining is excessive and unfair; tarps placed on the roof only interrupted the tenant's quite enjoyment of the unit on rainy days; and the hearing officer exhibited bias against the landlord.

MSC: To deny the appeal. (Becker/Bierly: 5-0)

D. 295 Monterey St.

T001-54 & -55R

The landlord's petition for certification of capital improvement costs to the tenants of five of six units was granted. Two tenants appeal the decision on the grounds that: the hearing officer miscalculated the apportionment of the passthrough based upon the square footage and services benefiting each unit;

the hearing officer did not allow the tenants' attorney to present evidence of deferred maintenance at the hearing; and regular inspections of the premises would have revealed the presence of dry rot and led to repairs that would have reduced the scope of the work later performed.

MSC: To deny the appeals. (Lightner/Mosser: 5-0)

E. 660 Bush St. #503

T001-48A; T001-59R

The tenant's petition alleging substantial decreases in housing services during a period of renovation of the unit was granted, in part, and the landlord was found liable to the tenant in the amount of \$248.00. Both the tenant and the landlord appeal the decision. The tenant claims that the holes in the wall could not have been caused by the tenant's children; and that the scope of the project was prolonged by the landlord's deferred maintenance. The tenant also renews his objections to the capital improvement passthrough granted in a prior decision. The landlord produces a check in the amount of \$251.33 that she claims was compensation to the tenant for reduced services during renovation of the premises, and asserts that the rent reductions granted constitute double recovery.

MSC: To deny the tenant's appeal. To accept the landlord's appeal and remand the case to the hearing officer, on the record, to offset the amount already paid by the landlord to the tenant from the amount determined to be owing in the Decision of Hearing Officer. (Lightner/Justman: 5-0)

F. 534 Broadway

T001-60R

The tenant's petition alleging decreased housing services was dismissed based on lack of jurisdiction due to the fact that the rents are controlled and regulated by the State of California. On appeal, the tenant asserts that the Rent Board's failure to exercise jurisdiction in this case deprives similarly situated tenants of a forum for asserting decrease in services claims; that nothing in the State's Loan or Regulatory Agreement governing the project precludes the Rent Board from exercising jurisdiction; that the tenant was under the jurisdiction of the Ordinance prior to being temporarily evicted for capital improvement work and had the right to reoccupy at the prior rent adjusted in accordance with the provisions of the Rent Ordinance; and requests an extension of time in order to procure an opinion from the Office of the City Attorney regarding the legislative intent behind the exemption contained in Ordinance Section 37.2(r)(4)

MSC: To recuse Commissioner Becker from consideration of this appeal. (Becker/Lightner: 5-0)

MSC: To deny the appeal. (Mosser/Lightner: 4-0)

G. 1018 Tennessee St.

T001-49A

The landlord's petition for certification of the costs of replacement of the front stairs and exterior painting was granted, in part. On appeal, the landlord

provides documentary evidence in support of his petition that was not provided at the time of the hearing; and allegedly proving that the tenant was not being charged twice for work with which the landlord was dissatisfied.

MSC: To accept the landlord's appeal and remand the case on the record to grant the \$500.00 paid for scaffolding and to give the landlord credit for the \$750.00 deducted from the payment to the first contractor and paid to the second contractor.
(Lightner/Mosser: 5-0)

H. 452 Castro St. #5

T001-61R

The tenant's appeal was filed twelve days late because the tenant maintains that he had pneumonia.

MSC: To find good cause for the late filing of the appeal.
(Becker/Lightner: 5-0)

The landlord's petition for certification of the costs of new gas lines to two units was granted, resulting in a monthly passthrough in the amount of \$57.64. One tenant appeals the decision on the grounds of financial hardship, also asserting negligence on the part of the landlord by having faulty gas lines.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Bierly: 5-0)

VI. Communications

The Board received correspondence concerning cases on the calendar.

VIII. Old Business

Proposed Amendment to Rules Section 1.17 Regarding Non-Residential Use of a Unit

The Board discussed a proposal by Commissioner Lightner to add a subsection (i) to Section 1.17 of the Rules and Regulations to read as follows:

"Rental Unit" means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings (including parking facilities supplied in connection with the use or occupancy of such unit), which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

- (i) a lawful residential unit, wherein there is no consistent residential use by the tenant.

After discussion, which focused on whether such an amendment was necessary, the Board voted as follows:

MSC: To put out for Public Hearing proposed language adding subsection (i) to Rules and Regulations Section 1.17. (Lightner/Mosser: 3-2; Becker, Bierly dissenting)

The Public Hearing will be held at 6:00 p.m. at the Board meeting on May 18, 1999.

IV. Remarks from the Public (cont.)

Attorney Steven Adair MacDonald informed the Commissioners of the status of a case where he is representing a tenant claiming protection under Rent Ordinance Section 37.9(i)(1)(B) ("The Moratorium"). A woman inquired as to Rent Board jurisdiction over recipients of project-based rental assistance and was informed that there is limited jurisdiction over recipients of tenant-based rental assistance only.

IX. Calendar Items

April 13, 1999 - NO MEETING

April 20, 1999

7 appeal considerations

Old Business: Issues Possibly Warranting Amendments to the Ordinance and Rules and Regulations

New Business: Rent for Non-Comparable Replacement Units
{Ord. Section 37.9(a)(8)(iv)}

X. Adjournment

President Wasserman adjourned the meeting at 7:30 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

20/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,

April 20, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

Fax Copy 1st Posted 4/15/99(S)
DOCUMENTS DEPT.

APR 16 1999

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 1912 McAllister St. T001-50A

The landlord appeals the decision granting a claim of decreased housing services, alleging lack of jurisdiction.

B. 890 Page St. T001-51A

The landlord appeals the decision only partially granting certification of capital improvement costs.

C. 272 Downey St. T001-52A

The landlord appeals the decision granting rent reductions due to decreased housing services.

D. 1530 Gough St. T001-62R thru -67R

Six tenants appeal the decision granting certification of capital improvement costs.

E. 3943 Mission St. #1 T001-53A

The landlord appeals the decision denying certification of capital improvement costs due to Rules and Regulations Section 7.12(b) ("The 6-Month Rule").



F. 3718 - 24th St.

T001-69R

The tenant appeals the denial of her petition alleging the landlord's failure to repair.

G. 1842 Clement St.

T001-68R

The tenant appeals the dismissal of his petition alleging unlawful rent increase and decreased housing services due to his failure to appear at the hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

Rent for Non-Comparable Replacement Units (Ordinance Section 37.9(a)(8)(iv)

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



2
1/20/99
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**Residential Rent Stabilization
and Arbitration Board**

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

Tuesday, April 20, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

APR 29 1999

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:04 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II. Roll Call

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioners Present: Becker; Bierly; Gruber; Justman; Lightner;

Mosser; Murphy; Wasserman.

Commissioners not Present: Justman; Lightner.

Staff Present: Grubb; Wolf.

SAN FRANCISCO
PUBLIC LIBRARY

Commissioner Marshall appeared on the record at 6:08 p.m.; Commissioner Moore arrived at the meeting at 6:36 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 6, 1999.
(Becker/Murphy: 5-0)

IV. Consideration of Appeals

A. 1912 McAllister St.

T001-50A

The tenant's petition alleging a substantial decrease in housing services was granted, and the landlord was found liable to the tenant in the amount of \$10.00 per month due to the failure to provide a secure mailbox on the premises, nor to continue to allow the tenant to pay for a private, off-site mailbox and deduct the amount from her rent. On appeal, the landlord alleges that: the property is exempt from Rent Board jurisdiction; the agreement regarding the mailbox was intended to be temporary, and the problem that necessitated an off-site mailbox no longer exists; the tenant's correct base rent is the amount established in her lease, rather than the amount that she has been paying for two years; and the hearing officer erred in seeming to allow the tenant to choose roommates in this social services program wherein it is incumbent for the landlord to select tenants pursuant to regulatory agreements governing rent at the property.

MSC: To accept the landlord's appeal and remand the case to the hearing officer on the record to vacate the decision and dismiss the tenant's petition due to lack of jurisdiction.



(Murphy/Gruber: 5-0)

B. 890 Page St.

T001-51A

The landlord's petition for certification of capital improvement costs was granted, in part. Additionally, the landlord was found liable to the tenant in one unit for rent overpayments in the amount of \$1,531.26. The landlord appeals, asserting that: the hearing officer erred in failing to include a \$25 charge for parking when calculating the tenant's base rent; a rent increase given for a garage space is not subject to Rent Ordinance limitations; the tenant in unit #4 should not be subject to the "6-Month Rule" because the tenant was a roommate in a continuing tenancy, and not a new tenant in November, 1996; and costs for federal taxes, Workers' Compensation, Social Security and other benefits provided to workers he employed for the paint jobs should be certified.

MSC: To accept the appeal and remand the case to the hearing officer to include the \$25 parking charge in the tenant's base rent and correct the rent overpayments owing from the landlord to the tenant as appropriate; and to determine the applicability of Rules and Regulations Section 7.12(b) ("The 6-Month Rule") to the tenant in unit #4 -- a hearing will be held only if necessary. (Becker/Marshall: 5-0)

C. 272 Downey St.

T001-52A

The landlord's appeal was filed 25 days late because she claims not to have received the Decision of Hearing Officer.

MSC: To find good cause for the late filing of the appeal.
(Wasserman/Murphy: 3-2; Becker, Marshall dissenting)

The tenants' petition alleging decreased housing services was granted, and the landlord was found liable to the tenants in the amount of \$9,500.40 due to serious habitability problems on the premises. The landlord did not appear at the hearing and alleges, on appeal, not to have received the Notice of Hearing.

MSC: To accept the appeal and remand the case to the hearing officer for a new hearing. (Wasserman/Gruber: 5-0)

D. 1530 Gough St.

T001-62R thru -67R

The appeal of the tenant in unit #706 was filed one day late without explanation.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Murphy: 4-1; Wasserman dissenting)

The landlord's petition for certification of the cost of an exterior paint job to twenty-five of thirty-eight units was granted, resulting in a monthly passthrough in the amount of \$12.29. Six tenants appeal, claiming that: the work was the

result of the landlord's deferred maintenance; painting of the building is a necessary maintenance item, and not a capital improvement; and documentation other than the contract for the work and canceled checks should be required. The tenant in unit #205 also appeals on the basis of financial hardship.

MSC: To deny the tenants' appeals. (Murphy/Gruber: 5-0)

MSC: To deny the hardship appeal filed by the tenant in unit #205. (Becker/Gruber: 5-0)

E. 3943 Mission St. #1

T001-53A

The landlords' petition for certification of the costs of new windows and a low flow toilet to the tenants in one unit was denied because the work was done within six months of the tenants' taking occupancy of the unit {Rules and Regulations Section 7.12(b)}. On appeal, the landlord asks that the 6-Month Rule be waived because the improvements were not planned, and therefore the costs were not factored into the initial rent, but were initiated at the tenants' request.

MSC: To accept the appeal and remand the case to the hearing officer to waive the 6-Month Rule because the improvements were made at the request of the tenants; a hearing will be held only if necessary. (Wasserman/Gruber: 5-0)

F. 3718 - 24th St.

T001-69R

The tenant's petition alleging the landlord's failure to make requested repairs required by law was denied. On appeal, the tenant claims that: the Findings of Fact and Conclusions of Law in the Decision of Hearing Officer are not supported by the evidence on record; and the hearing officer exhibited bias against the tenant and in favor of the landlord.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 1842 Clement St.

T001-68R

The tenant's petitions alleging an unlawful increase in rent and substantial decrease in housing services were dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant maintains that he failed to receive notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing. The tenant has vacated the unit.

MSC: To accept the appeal and remand the case for a new hearing only upon the request of the tenant. (Marshall/Becker: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A Memorandum from the Deputy Director regarding the issue of determining initial rent for non-comparable replacement units pursuant to Ordinance Section 37.9(A)(8)(iv) {Proposition G}.
- B. A letter from tenant attorney Randy Shaw regarding proposed Rules and Regulations Section 1.17(i) contending that the phrase "consistent residential use" is "so vague that a reasonable person cannot decipher its meaning."
- C. A letter from landlord Bill Quan regarding the proposed increase in the rental unit fee, contending that: the Rent Board should have to demonstrate increased efficiency before increasing the fee; banking and retroactive collection should be permitted; and failure by a tenant to reimburse the landlord the amount of the fee should be a just cause reason for eviction.
- D. A letter from Michele Sutton, Special Investigator for the State Bar of California, to former Board President Becker stating that their investigation of attorney David Partridge Dawson has been completed and no provable professional misconduct has been found to have occurred.

VI. Director's Report

Executive Director Grubb informed the Board that legislation increasing the rental unit fee to \$16 for residential units and \$8 for residential hotel rooms will be introduced in mid-May and then be referred to either the Housing and Land Use or Finance Committees.

VII. Remarks from the Public

- A. Anastasia Yovanopolous, the tenant in the case at 3718 - 24th Street (T001-69R), expressed her belief that the fee increase will be good because the Rent Board needs more staff; she also alleged that the hearing officer in her case disregarded her documentary evidence and stated that she will cease filing petitions because the Rent Board doesn't "pay attention" to her.
- B. Landlord Eric Kref inquired as to how the Board will deal with the issue of rent for non-comparable replacement units when there is an eviction for owner-occupancy; he is currently involved in a case where the market value for the unit is significantly higher than the tenant is willing to pay.
- C. One of the tenants involved in the appeal concerning 890 Page Street (T001-51A) inquired as to the result of the Board's consideration of the landlord's appeal.

D. Landlord Mitchell Tannenbaum expressed his frustration that he was not informed as to the result of his request for a Technical Correction until he had already filed his appeal.

VIII. New Business

**Determinations of Initial Rent for Non-Comparable Replacement Units
Pursuant to Ordinance Section 37.9(A)(8)(iv) {Proposition G}**

The Board discussed a Memorandum from the Deputy Director regarding the fact that staff is receiving inquiries from tenants and landlords who are involved in owner-occupancy evictions where a non-comparable unit in the building has become available, but the parties cannot agree on an appropriate amount of rent. Pending the enactment of Rules and Regulations on this and other issues surrounding Proposition G, which passed on the November ballot, Senior Staff has proposed a process by which such rent determinations could be made, including necessary forms. Commissioner Murphy wanted it noted for the record that, since he believes Proposition G to be unconstitutional, and thinks that setting an initial rent for a unit conflicts with the provisions of Costa-Hawkins, he does not think that the Board has the authority to enact Rules and Regulations to implement such provisions. The Board will continue discussion of this issue at the next meeting with Deputy City Attorney Marie Blits.

IX. Calendar Items

April 27, 1999 - NO MEETING

May 4, 1999

Old Business:

- A. Costa-Hawkins (Civil Code Section 1954.53)
- B. Rent for Non-Comparable Replacement Units
- C. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

X. Adjournment

President Wasserman adjourned the meeting at 7:45 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

4/99
bended
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,
May 4, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AMENDED AGENDA

Fax/Copy 1st Posted 4/30/99
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I. Call to Order

MAY 03 1999

II. Roll Call

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III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

V. Old Business

A. Costa-Hawkins (Civil Code Section 1954.53)

B. Rent for Non-Comparable Replacement Units {Ordinance Section 37.9(a)(8)(iv)}

C. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

VI. Communications

VII. Director's Report

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

VIII. New Business

Proposed Amendments to Rules and Regulations Section 6.15

IX. Calendar Items

X. Adjournment



MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

MAYOR

SHARON K. WASSERMAN
PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, May 4, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:02 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Lightner; Marshall; Mosser;

Murphy; Wasserman.

Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:04 p.m.; Commissioner Justman arrived at the meeting at 6:09 p.m.; and Commissioner Moore appeared at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 20, 1999.
(Murphy/Mosser: 5-0)

DOCUMENTS DEPT.

MAY 12 1999

IV. Old Business

A. Costa-Hawkins (Civil Code Section 1954.53)

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The Board continued their discussion of issues associated with the implementation of the Costa-Hawkins Rental Housing Act of 1995. The Commissioners went through a final draft of suggested amendments to the Rent Ordinance prepared by Deputy City Attorney Marie Blits. The Board clarified their position that when there are serious health or safety code violations that have remained unabated for the six months preceding the vacancy, the landlord has the right to establish the initial rent, but not subsequent rents; changed the title of subsection 37.a(8)(A) to "Property Owner Rights to Establish Initial and All Subsequent Rental Rates for New Construction and for Separately Alienable Parcels" by omitting the underlined language regarding new construction; and amended subsection 37.a(8)(B) to read as follows:

(B) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment. Except as identified in this Subsection, nothing in this Subsection 37.3(a)(8)(B) or any other provision of law of the City and



County of San Francisco shall be construed to preclude express establishment in a lease or rental agreement of the rental rates to be applicable in the event the rental unit subject thereto is sublet, and nothing in this Subsection shall be construed to impair the obligations entered into prior to January 1, 1996. (new language underlined)

Additionally, Subsection 37.3(a)(8)(B)(ii) was amended as follows below:

(ii) This Subsection shall not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner provided for above (37.3(a)(8)(B)), remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit. Nothing contained in this Subsection 37.3(a)(8)(B) shall be construed to enlarge or diminish an owner's right to withhold consent to a sublease or assignment. (new language underlined)

After discussion and agreement on the above changes, the Board voted as follows:

MSC: To forward proposed amendments to the Rent Ordinance in order to conform it to the provisions of the Costa-Hawkins Rental Housing Act of 1995 (Civil Code Section 1954.53) to the Board of Supervisors. (Lightner/Gruber: 5-0)

President Wasserman will prepare an accompanying letter informing the Board of Supervisors that this proposal is the result of the Board's endeavor to bring the Rent Ordinance into compliance with State law. Executive Director Grubb will work on lining up a member of the Board of Supervisors to sponsor the proposed amendments.

B. Rent for Non-Comparable Replacement Units
{Ordinance Section 37.9(a)(8)(iv)} -- Proposition G

The Board continued their discussion of the requirement in Ordinance Section 37.9(a)(8)(iv) that, when evicting for owner-occupancy, if no comparable vacant unit owned by the landlord is available, the landlord must offer any non-comparable unit that becomes available prior to recovery of possession of the unit. The rent for the unit shall be based on the rent the tenant is paying, adjusted in accordance with size, amenities, etc., and disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board. Presently, staff is receiving inquiries from tenants and landlords who are disputing the appropriate initial rent amount. Pending the enactment of Rules and Regulations on this issue, Senior Staff has developed forms and procedures for making such rent determinations, which could be initiated by either a landlord or a tenant. At the last meeting, Commissioner Murphy expressed his concern that this provision of Proposition G is in contravention of Costa-Hawkins, and requested that Deputy City Attorney Marie Blits provide the

Board with an opinion as to their authority to enact Rules and Regulations to implement provisions of the Ordinance that may be unconstitutional.

Ms. Blits informed the Commissioners that, since Proposition G was enacted by the voters, it is questionable as to whether the Board can override any of its provisions. Rather, the Commission is charged with interpreting and applying the Ordinance in accordance with existing law, including Costa-Hawkins. Two cases challenging Proposition G and the Conditional Use Permit requirement for owner-occupancy will be heard before Judge Garcia later in the month, which may provide some guidance. In the meantime, the Board passed the following motion:

MSC: To go forward with the procedures suggested by staff to determine the initial rent for non-comparable replacement units pursuant to Ordinance Section 37.9(A)(8)(iv) so long as the replacement unit is a covered rental unit as defined in Ordinance Section 37.2(r).

Justman/Becker: 3-2; Gruber, Murphy dissenting)

C. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

Due to the lateness of the hour, discussion of this issue was continued to the meeting on June 29th.

V. Communications

The Board received a Memorandum from Senior Hearing Officer Sandy Gartzman regarding the Minute Order Pilot Project and a letter from Eric Andresen, President of the Professional Property Management Association of San Francisco, in support of amendments to Rules Section 6.15 proposed by Commissioner Lightner.

VI. Remarks from the Public

A member of the public addressed the Board regarding the issue of "Pied a Terres". He informed the Board that a twenty-year tenant in a building owned by his mother actually resides in Arizona, but the rent on her unit is very low because she is protected by the Rent Ordinance. He believes that this restricts the availability of residential units to San Francisco tenants.

VII. New Business

Proposed Amendments to Rules and Regulations Section 6.15

In response to an increase in absolute prohibitions against subletting and assignment in leases and rental agreements, Supervisor Leno has introduced legislation that would: (1) make a landlord's unreasonable refusal to allow replacement roommate(s) grounds for a rent reduction, even where there is an

absolute prohibition; and (2) prohibit eviction for breach if the tenant is in violation of an absolute prohibition against subletting or assignment. In response to this proposed legislation, Commissioner Lightner introduced two alternative approaches to this problem: the first would consider the approval of a sub-lease in the face of an absolute prohibition to be an increase in services, warranting an increase in rent; and the second would define a narrow set of circumstances under which a tenant's breach of an absolute prohibition would not be grounds for eviction. This issue will be discussed at the meeting on June 29th.

VIII. Calendar Items

May 11, 1999 - NO MEETING

May 18, 1999

9 appeal considerations

6:00 Public Hearing: Non-Residential Use of a Unit
{Proposed Rules Section 1.17(i)}

IX. Adjournment

President Wasserman adjourned the meeting at 10:15 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

April 16, 1999

WILLIE L. BROWN, JR.
MAYOR

MERRIE T. LIGHTNER
PRESIDENT

SHARON K. WASSERMAN
VICE-PRESIDENT

18/99
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY J. JUSTMAN
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTICE OF PUBLIC HEARING

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DATE: May 18, 1999

TIME: **6:00 P.M.**

PLACE: **25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70 Lower Level
SAN FRANCISCO, CALIFORNIA**

PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTION 1.17 DEFINING RENTAL UNITS

The Rent Stabilization and Arbitration Board Commissioners are proposing an amendment to the language in Section 1.17 of the Rules and Regulations.

New language is underlined. The proposed language would add new subsection (i) to Section 1.17 of the Rules and Regulations to read as follows:

"Rental Unit" means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings (including parking facilities supplied in connection with the use or occupancy of such unit), which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

//
//

(i) a lawful residential unit, wherein there is no consistent residential use by the tenant.

Written comments may be submitted prior to the hearing. Persons wishing to respond should do so by noon Wednesday May 12, 1999 to ensure that Commissioners have time to consider submissions. Oral testimony will also be taken on the 18th.

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City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
May 18, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

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EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 725 Ellis St. #506

T001-71R

The tenant appeals the dismissal of a petition alleging unlawful rent increases.

B. 531 Broderick St.

T001-70R

The tenant appeals the decision partially granting a reduction in services claim.

C. 1536 Great Highway #38

T001-55A

The landlord appeals the decision granting rent reductions due to decreased housing services and determining rent overpayments.

D. 1900 Vallejo St. #104

T001-58A; T001-80R

The tenant and landlord appeal the decision granting a claim of decreased housing services but denying a failure to repair claim.

E. 328 Kirkham St. #2

T001-72R

The tenant appeals the dismissal of her petition claiming decreased housing services.



F. 170 Duboce Ave. #8

T001-76 & -82R

Two tenants appeal the decision certifying capital improvement costs.

G. 553 Sanchez St.

T001-56A

The landlord appeals the decision granting rent increases due to increased operating expenses, claiming hardship and lack of a fair return.

H. 1246 Jackson St.

T001-57A; T001-77R

The landlord and tenant appeal the decision granting a claim of decreased housing services.

I. 650 Waller St.

T001-75R

The tenant appeals the dismissal of his petition alleging decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

CITY AND COUNTY OF SAN FRANCISCO



8/199
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, May 18, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Marshall;

Moore; Mosser; Wasserman.

Commissioners not Present: Justman.

Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:45 p.m.

DOCUMENTS DEPT.

III. Approval of the Minutes

MSC: To approve the Minutes of May 4, 1999.

(Becker/Lightner: 5-0)

MAY 27 1999

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IV. Consideration of Appeals

A. 725 Ellis St. #506

T001-71R

The tenant's petition alleging an unlawful increase in rent was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant's grand-daughter claims that there was a misrepresentation on the part of a translator, which led to a misunderstanding regarding the date of the hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Becker/Marshall: 5-0)

B. 1536 Great Highway #38

T001-55A

The tenant's petition alleging an unlawful increase in rent and substantially decreased housing services was granted, in part. The hearing officer found the landlord liable to the tenant in the amount of \$5,209.22 due to overpayments in rent and continued a rent reduction ordered in a prior decision in the amount of \$15.00 per month due to broken and badly repaired bathroom floor tiles. On appeal, the landlord claims that the decision is inequitable because the



unlawful rent increases were imposed by a prior owner; neither the tenant nor the current owner knew that the amounts were excessive prior to the instant proceeding; and, if proper rent increases that the owner was entitled to had been imposed, the tenant would have paid the same amount of rent.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

C. 1900 Vallejo St. #104

T001-58A; T001-80R

The landlord's appeal was filed one day late because the landlord's attorney was traveling and unable to confer with his client. The tenant filed an appeal 16 days late because of new evidence recently come to light.

MSC: To find good cause for the late filing of the appeals.
(Becker/Marshall: 5-0)

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,025.00 due to peeling paint and clogged sink drains. The tenant's failure to repair claim was denied as untimely and because the tenant failed to prove that the conditions constituted code violations. On appeal, the landlord contends that the \$50 per month rent reduction for the condition of the paint is excessive because the area involved is small; and that good faith attempts were made to repair the sinks, which only backed up twice during the period in question. The tenant also appeals the denial of two of her claims due to insufficient evidence, providing documentation showing that two other tenants in the building complained of the same conditions.

MSC: To deny both the landlord's and tenant's appeals.
(Lightner/Gruber: 5-0)

D. 328 Kirkham St. #2

T001-72R

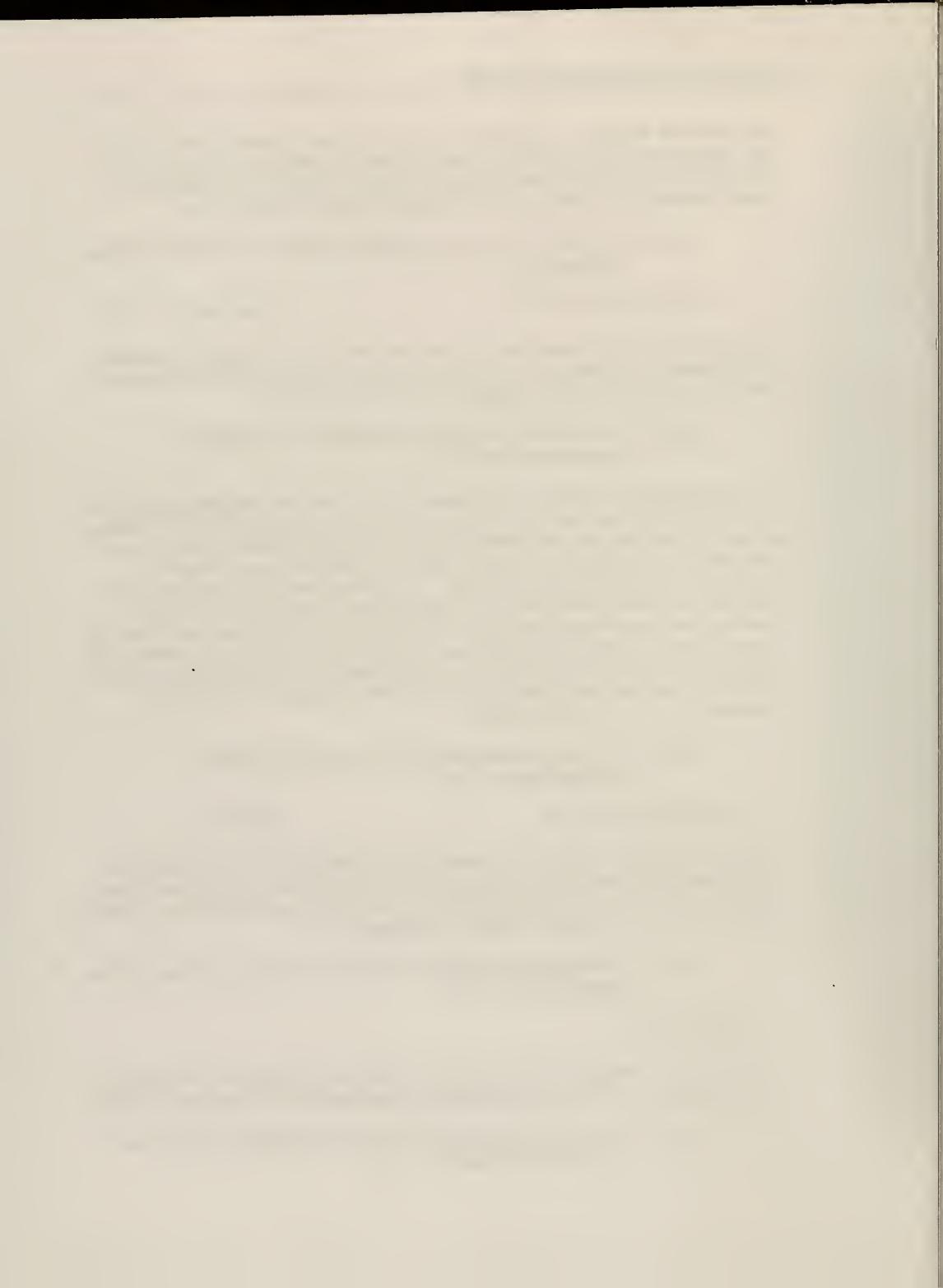
The tenants' petition alleging a decrease in housing services was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants claim not to have received notice of the hearing, and attach the requisite Declaration of Non-Receipt of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Becker/Marshall: 5-0)

V. Public Hearing

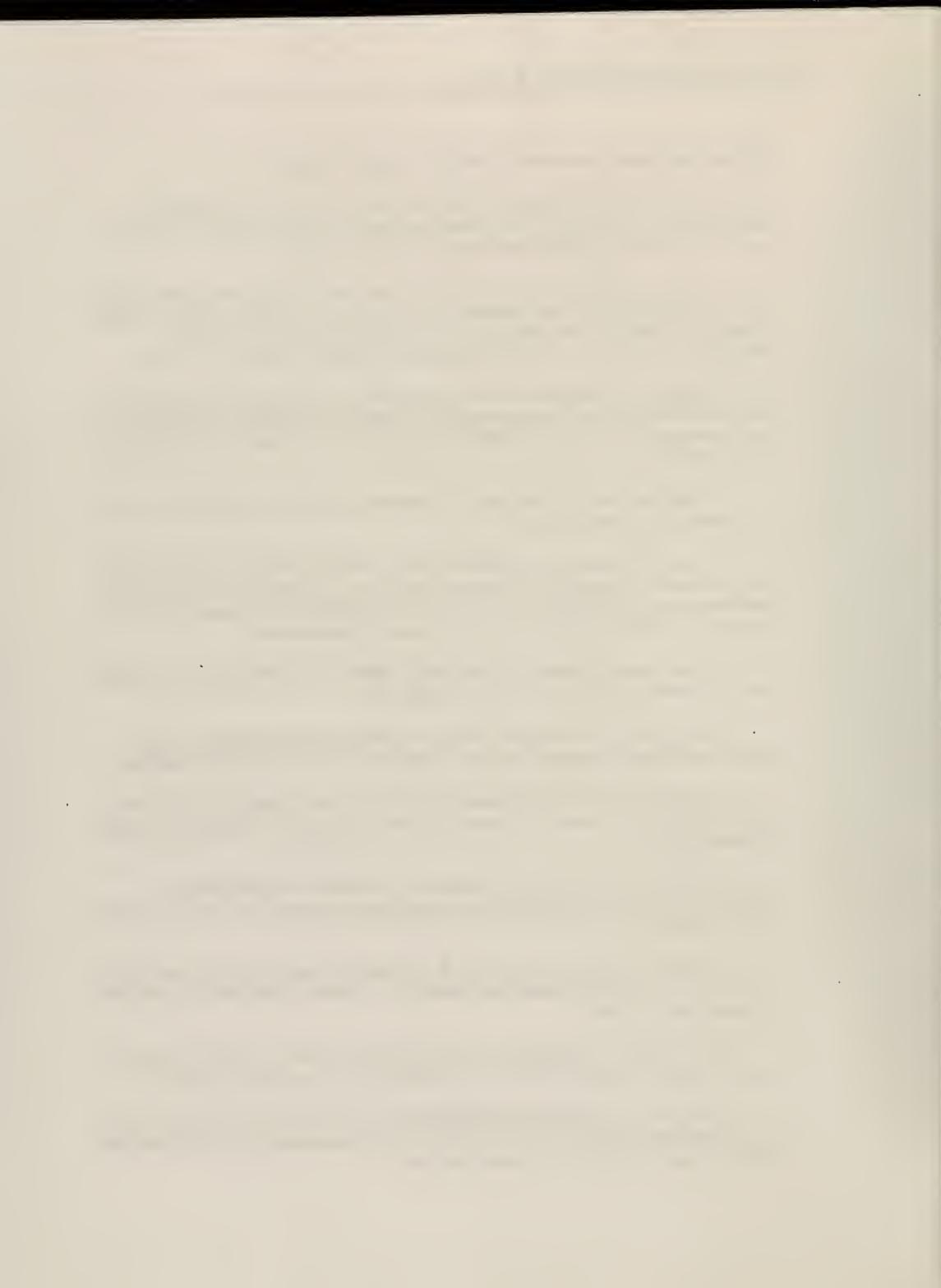
The Board commenced a Public Hearing on the issue of non-residential use of a unit at 6:40 p.m. Prior to proceeding, the Board passed the following motion:

MSC: To recuse Commissioner Becker from consideration of this issue. (Marshall/Lightner: 5-0)



Twelve individuals addressed the Board as follows below:

- Landlord Attorney Nancy Lenvin spoke in support of the proposal, stating that the increase in office rents has led to more residential units being used commercially, which exacerbates the housing crisis.
- Ted Gullickson from the Tenants' Union said that Planning and Zoning should deal with illegal conversions, as the proposal will open a new loophole for eviction attempts. He questioned the use of the phrase "consistent residential use" because of situations where tenants go away for a while.
- Miguel Wooding from the Eviction Defense Collaborative said that he has been seeing more "pretext evictions" since the enactment of restrictions on owner-occupancy; he believes that it is disingenuous to say that the proposal helps tenants.
- Landlord Tommy Tang asked whether a building constructed in 1985 was exempt from rent control.
- Landlord Sonia Ng explained that two families bought a building that they intended to occupy, but the tenants won't move. She told the Board that "landlords are not the problem." She also requested that the Board provide translation services for the Chinese speakers in attendance.
- David Man followed up on Ms. Ng's request for translation, stating that he only understood 50% of what was being said.
- Tenant Kate Ritchey expressed her belief that the proposal would discriminate against existing tenants who travel and have erratic schedules.
- Tenant Debra Sialana explained that she has an irregular schedule, and often travels for work. She asked that the language be "quantifiable, and not wide open."
- Janan New from the S.F. Apartment Association supported the "clarifying language", stating that housing units are being used for other uses such as storage.
- Landlord Peter Lewis told the Board about a friend of his in New York who is quite affluent but retains his tenancy in a studio apartment that he uses exclusively as an office.
- J. B. Alejani said that he has a friend who is "proud" of the fact that he has two large rent controlled units, one of which he is using as an office.
- Attorney Steve Mac Donald stated that the "spirit" of the proposal was not problematic, but that the language was. He suggested that the Board add that there be "consistent non-residential use."



After closing the Public Hearing at 7:05 p.m., the Commissioners discussed the issues raised. Commissioner Lightner explained that her proposal was not a move toward requiring that a rental unit be the tenant's principal place of residence in order for there to be jurisdiction, and therefore did not address the problem of "pied a terres." Commissioner Marshall expressed concerns that the proposal could provide an incentive to owners to rent commercially, and reward owners who were in violation of zoning laws with rent increases. Since the targeted situations were those where a tenant changed the use of the unit, such as moving out of the City but keeping one's unit for office use only, the Board passed the following motion:

MSC: To adopt new Rules and Regulations Subsection 1.17(i), which shall read as follows below:

Section 1.17 Rental Units
(new language underlined)

"Rental Unit" means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings (including parking facilities supplied in connection with the use or occupancy of such unit), which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

(i) a residential unit, wherein at the inception of the tenancy there was residential use, there is no longer residential use and there is a commercial or other non-residential use. The presumption shall be that the initial use was residential unless proved otherwise by the tenant.

(Gruber/Lightner: 3-2; Marshall, Moore dissenting)

IV. Consideration of Appeals (cont.)

E. 650 Waller St.

T001-75R

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the continued hearing, his request for postponement having been denied. On appeal, the tenant maintains that: the hearing should not have been re-set without express confirmation of acceptance of the date from both parties; there was inadequate time to respond to the proposed date for the continued hearing; and dismissal of all claims with prejudice constitutes a serious inequity under the circumstances.

MSC: To recuse Commissioners Lightner and Becker from consideration of this appeal. (Wasserman/Marshall: 5-0)

MSC: To accept the appeal and remand the case to the same hearing officer for a continued hearing; no further postponements will be granted to the tenant for any reason. (Wasserman/Murphy: 5-0)

F. 531 Broderick St.

T001-70R

The tenants' appeal was filed one day late because the tenants have a concurrent case at the Board of Permit Appeals which is requiring a great deal of preparation on their part; their lawyer was in New York at the time of issuance of the decision; and they were visiting relatives over the Passover and Easter holidays.

MSC: To find good cause for the late filing of the appeal. (Marshall/Becker: 5-0)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$900.00 for loss of use of a side yard and ancillary storage and off-site parking. However, the tenant's claim that loss of access to a back gate connected with her off-site parking warranted a rent reduction was denied, because the hearing officer found that access to the gate was acquired after the commencement of the tenancy for no additional compensation. On appeal, the tenant asserts that: since the side yard was open space required by law, the value should be greater than \$50.00 per month; the only remaining outdoor space, the deck, has been unsafe for several years; the loss of storage space and limitations on gardening commenced at an earlier date; and, use of the back gate is a service which "reasonably could have been expected", therefore warranting a rent reduction.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

F. 170 Duboce Ave. #8

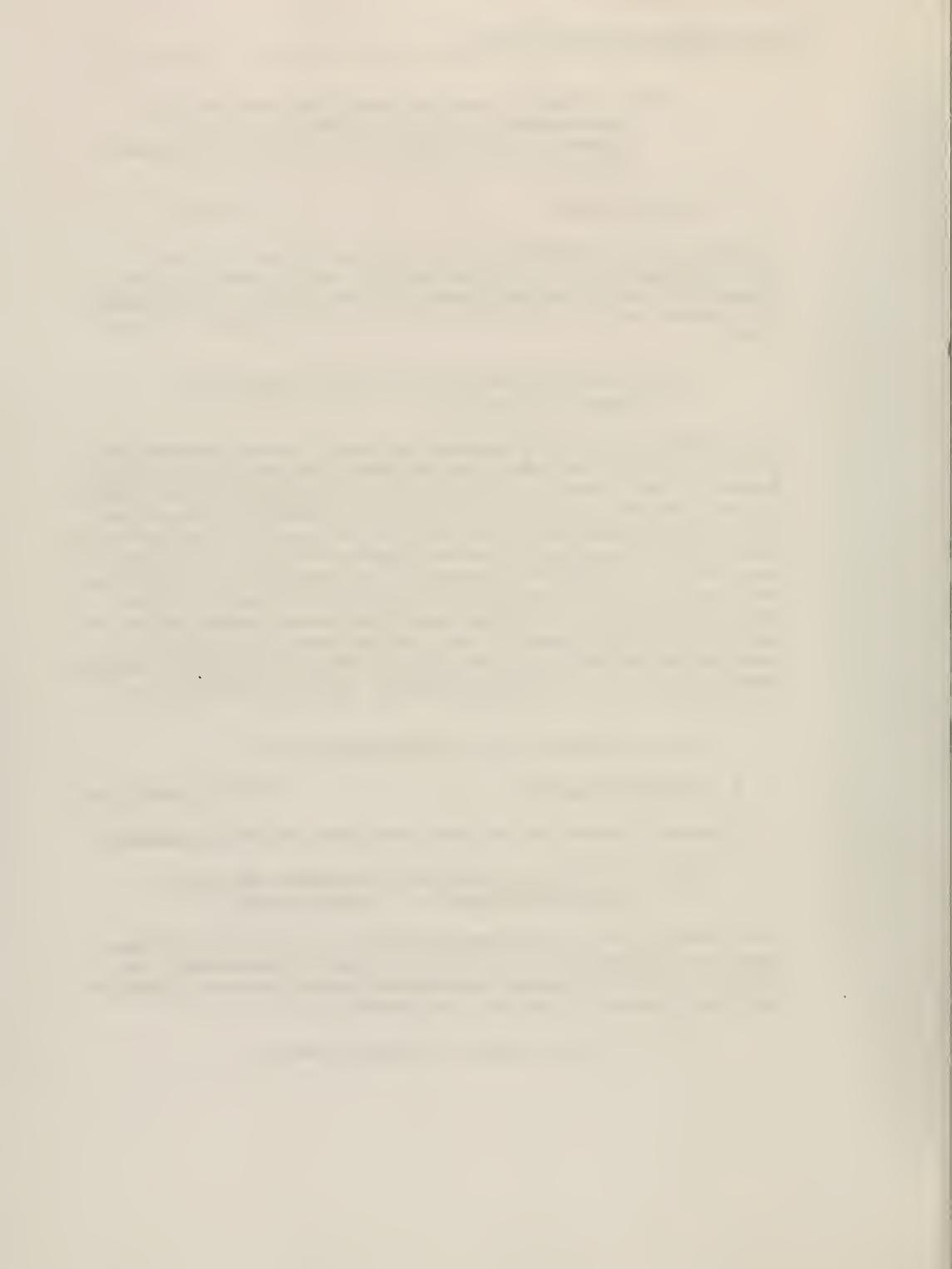
T001-76R, 82R & -86R

One tenant's appeal was filed twenty-three days late without explanation.

MSC: To find no good cause for the late filing of the appeal. (Wasserman/Marshall: 4-1; Becker dissenting)

The landlord's petition for certification of capital improvement costs for three of eleven units was granted, in part, resulting in a monthly passthrough in the amount of \$109.71. On appeal, the tenants ask that an independent estimator verify that the seismic upgrade work was actually done.

MSC: To deny the appeals. (Lightner/Gruber: 5-0)



G. 553 Sanchez St.

T001-56A

The landlord's petition for a rent increase based on increased operating expenses was granted on remand, resulting in a 7% base rent increase to the tenants in one unit. On further appeal, the landlord contends that the 7% cap on operating expenses should be waived in this case due to landlord hardship; and that the cap is unconstitutional as applied because he is being denied a fair return.

MSC: To deny the appeal without prejudice to the landlord's filing a petition based on fair return. (Becker/Marshall: 5-0)

H. 1246 Jackson St.

T001-57A; T001-77R

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$880.00. On appeal, the landlords claim that the Rent Board has no jurisdiction over this matter since the tenants had vacated the unit by the time of the hearing in this matter. The tenants also appeal, claiming that the first notice to the landlords of the construction noise problem was in October, rather than November, and the rent reduction should therefore be for eleven rather than ten months.

MSC: To deny both appeals. (Marshall/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. Several letters regarding the issue of non-residential use of a unit, the subject of the Public Hearing.
- B. A new staff roster.
- C. An article from the S. F. Examiner regarding petitions for capital improvement passthroughs filed by the landlords of two large apartment complexes wherein the requested rent increases are in the hundreds of dollars.
- D. Two "Customer Survey" forms showing the range of public opinion regarding the services provided by the agency.

VII. Director's Report

Executive Director Grubb informed the Commissioners that the Mayor's Office has approved the hiring of the new counselor and hearing officer positions early, in order to help the agency address the backlog; and that the additional Senior Hearing Officer, Tim Lee, will come on board as of June 1st.

VIII. Calendar Items

May 25, 1999 - NO MEETING ·

June 1, 1999

9 appeal considerations (1 rescheduled from 3/30/99; 1 from 4/20/99)
New Business: Rules and Regulations Section 12.18 (Ellis)

IX. Adjournment

President Wasserman adjourned the meeting at 8:45 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
June 1, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

Fax copy 1st posted 5/25/99
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SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

MAY 27 1999

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NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- A. 2301 Broadway #101 T001-48R
(rescheduled from 3/30/99)

The tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

- B. 181 Beaver St. T001-54A
(rescheduled from 4/20/99)

The landlord appeals the decision denying a claim of decreased housing services but determining rent overpayments.

- C. 1750 Hayes St. T001-74R

The tenant appeals the decision denying a claim of unlawful rent increase.

- D. 2135 California St. #03 T001-59A

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services due to the landlord's failure to allow a replacement roommate.

- E. 1140 Florida St. T001-78R



The tenant appeals the dismissal of a petition alleging decreased housing services and unlawful rent increase.

F. 827 - 22nd St. T001-79R

The tenant appeals the decision certifying capital improvement costs on the issue of the applicability of the "6-Month Rule".

G. 2471 Bryant St. T001-81R

The tenant appeals the dismissal, on remand, of a petition alleging decreased housing services.

H. 761 Treat Ave. T001-60A

The landlord appeals the decision granting a claim of decreased housing services but denying a failure to repair claim.

I. 3770 - 24th St. T001-61A

The landlord appeals the decision certifying capital improvement costs but finding the landlord's notice of rent increase procedurally defective.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

A. Ellis Act Amendments

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, *MAYOR*

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, June 1, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

I. Call to Order

JUN 11 1999

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

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II. Roll Call

Commissioners Present: Becker; Gruber; Justman; Lightner;

Marshall; Murphy; Wasserman.

Commissioners not Present: Bierly; Mosser.

Staff Present: Gartzman; Grubb; Wolf.

Commissioner Marshall left the meeting at 7:40 p.m.

Prior to proceeding with the Agenda, President Wasserman regretfully announced that Alternate Tenant Commissioner Everett Moore passed away on Monday, May 31st, and asked Commissioner Becker to say a few words about his many contributions on behalf of all residents of the City. A moment of silence was observed by all in attendance.

III. Approval of the Minutes

MSC: To approve the Minutes of May 18, 1999.
(Lightner/Becker: 5-0)

IV. Remarks from the Public

A member of the public commented on draft language pertaining to new Rules and Regulations Section 1.17(i) that was distributed prior to the Public Hearing on May 18th; he was informed that different language had been adopted by the Board.

V. Consideration of Appeals

A. 2301 Broadway #101

T001-48R

(rescheduled from 3/30/99)

The landlord's petition for certification of capital improvement costs to nine of fourteen units was granted, resulting in a monthly passthrough in the amount of \$34.09. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 181 Beaver St.

T001-54A

(rescheduled from 4/20/99)

The tenants' petition alleging decreased housing services and unlawful rent increases was granted in part and denied in part. The landlord was found liable to the tenants in the amount of \$9,320.00 due to excessive rent increases. The decrease in services claim was denied because the hearing officer found that when the unit came under Rent Board jurisdiction, after the death of the prior owner, use of the garage was not an included housing service. On appeal, the landlord, who is the mother of the prior owner, maintains that: there had been a temporary reduction in the base rent and the rent increase was merely a restoration of the prior base rent amount; as a co-owner of the property at the time of the rent reduction, she can personally attest to the intent of the landlord at the time the rent was reduced; the landlord was prejudiced by not having counsel at the time of the hearing; and the definition of "base rent" pursuant to Proposition I does not preclude temporary reductions in the amount.

MSC: To accept the landlord's appeal and remand the case for a new hearing to augment the record on the issues of the proper base rent amount and whether or not there was a substantial decrease in housing services. (Gruber/Lightner: 5-0)

C. 1750 Hayes St.

T001-74R

The tenant's petition alleging unlawful rent increases was denied. The hearing officer found that were not increases in rent but that the tenant, a former co-owner of the property, had agreed to a phased-in schedule of rent payments to retire debts owing to the landlord and gradually bring the rent up to the originally agreed-upon amount. On appeal, the tenant asserts that no extenuating circumstances exist that would render the rent increases lawful.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

D. 2135 California St. #3

T001-59A

The tenants' petition alleging decreased housing services because of the landlord's failure to allow a replacement roommate was granted, and the landlord was found liable to the tenants in the amount of \$2,549.04. On appeal, the landlord asserts that: the rental agreement for the premises prohibits subletting and, just because the landlord has allowed it in the past, he has not permanently waived the prohibition; the tenants have engaged in a fraud as to who has actually vacated the premises; and, in accordance with Civil Code

Section 1954.53 (Costa-Hawkins), he should be allowed to raise the rent because the last original tenant commenced occupancy after January 1, 1996.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

E. 1140 Florida St.

T001-78R

The tenant's petition alleging unlawful rent increase and substantially decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant provides proof that she was out of the country at the time of the hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 5-0)

F. 827 - 22nd St.

T001-79R

The landlord's petition for certification of capital improvement costs for two units was granted, resulting in a monthly passthrough in the amount of \$50.24. One tenant appeals on the grounds that: neither she nor any of the other tenants resided on the premises for at least six months prior to the installation of the back doors and exterior painting; and the work performed does not meet the definition of "capital improvement" because of existing damage prior to any of the tenants moving into the building.

MSC: To accept the appeal on the question of the date of inception of the tenancy for purposes of applying the "6-Month Rule"; a hearing will be held only if necessary. (Gruber/Marshall: 5-0)

G. 2471 Bryant St.

T001-81R

The tenant's petition alleging substantial decreases in housing services was dismissed because the tenant failed to appear at the properly noticed remand hearing. On appeal, the tenant claims not to have received the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 5-0)

H. 761 Treat Ave.

T001-60A

The tenant's petition was denied as to claims of unlawful rent increase and the landlord's failure to repair. A claim of decreased housing services was granted, however, and the landlord was found liable to the tenant in the amount of \$1,885.00. The landlord failed to appear at the second hearing held in this case and, on appeal, claims not to have received the Notice of Hearing nor copies of the "complaint." After having been sent copies of the petition and

Declaration of Non-Receipt of Notice of Hearing, nothing further was received from the landlord.

After discussion, it was the consensus of the Board to continue this matter in order for staff to attempt to contact the landlord through certified mail

I. 3770 - 24th St.

T001-61A

The landlord's petition for certification of capital improvement costs was granted. However, notices of rent increase were found to have been issued prior to the filing of the petition and therefore determined to be null and void. On appeal, the landlord claims to have served the notices timely, and asserts that the date on the notices was a typographical error.

MSC: To accept the appeal and remand the case to the hearing officer to ascertain whether the notices of rent increase were timely served; a hearing will be held only if necessary.
(Gruber/Lightner: 4-1; Becker dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A new staff roster.

B. The office workload statistics for the month of April.

C. A letter from landlord John Caldwell asking that the Board revisit the case of Larsen v. Rent Board (Superior Court Case No. 979777). In that case, it was held that a new owner was not liable for rent reductions for a period where heat was not provided by a prior owner of the property, because the new owner had not been given notice of the condition. In Mr. Caldwell's case, concerning a new owner's liability for rent overpayments, notice is not an issue and, therefore, the Larsen case is not on point.

D. Two articles concerning rent control from the S.F. Bay Guardian and May 25, 1999 issue of the Recorder.

E. A Memorandum from Senior Hearing Officer Sandy Gartzman regarding proposed amendments to Ordinance Section 37.9A and Rules and Regulations Section 12.18 pertaining to "Ellis" evictions.

VII. Director's Report

A. Executive Director Grubb reported that legislation increasing the rental unit fee passed out of Committee on a 3-0 vote and will go before the full Board of Supervisors for first reading on Monday, June 14th.

B. Mr. Grubb informed the Commissioners that legislation introduced by Supervisor Leno pertaining to tenants' right to sublet even when there is an absolute prohibition against subletting and assignment in the lease or rental agreement, if the landlord has unreasonably withheld consent, was heard by the Housing and Land Use Committee today. Approximately 55 individuals signed up to speak on this issue and the matter was continued to July 6th in order for them all to have a chance to do so.

IV. Remarks from the Public (cont.)

A. A gentleman objected to the fact that translation services, specifically into Chinese, were not provided at the meeting. He was informed that the Board will provide translation at Public Hearings but, due to limited resources, a request must be made for translation in order for it to be provided at a regularly scheduled meeting of the Board. He also remarked that the Board seems "pro-tenant" and that nobody protects landlords who are poor.

B. The property manager involved in the case at 3770 - 24th St. (T001-61A) explained the "clerical mix-up" that led to the hearing officer's conclusion that the notices of rent increase were procedurally defective.

C. Sonia Ng stated that translation should be provided at meetings.

D. A woman requested that Agendas of Board meetings be provided in Chinese.

E. A member of the public asked why the "Accessible Meeting Policy" attached to the Minutes provides that sign language interpreters will be provided upon request, but makes no such representation regarding translation into Chinese. She asked if the Board is more in favor of tenants, since tenants pay the rental unit fee.

Commissioner Lightner raised certain concerns voiced by members of the landlord community after today's Committee hearing on the Leno legislation. Apparently, landlords felt it inappropriate that Tenant Commissioners Marshall and Becker got to speak without time limitations, while no landlord representative was given the same opportunity. Commissioner Lightner felt that the way the hearing was conducted led to an "appearance of impropriety" and the impression that the legislation was sponsored or supported by the Rent Board. She asked that this issue be put on the June 29th Agenda.

VIII. New Business

Ellis Act Amendments

The Commissioners received a Memorandum from Senior Hearing Officer Sandy Gartzman outlining procedural irregularities which Rent Board staff has been required to follow in order to implement Rent Ordinance Section 37.9(A)(g) and Rules and Regulations Section 12.18. The recent increase in

the number of Ellis filings has resulted in staff members having to spend a great deal of time explaining what are confusing requirements for "Ellising Out" and processing Notices of Intent to Withdraw the same rental units more than once. For these reasons, Ms. Gartzman presented the Board with a package, including: proposed amendments to Ordinance Section 37.9A; new Rent Board forms and procedures; and a recommendation that Rules and Regulations Section 12.18 be repealed in its entirety. After discussion with Ms. Gartzman, the Board voted as follows:

MSC: To recommend the proposed amendments to Ordinance Section 37.9A to the Board of Supervisors.
(Justman/Lightner: 4-0)

MSC: To schedule the recommended deletion of Rules and Regulations Section 12.18 for Public Hearing on June 29, 1999. (Lightner/Gruber: 4-0)

IX. Calendar Items

June 8, 1999 - NO MEETING

June 15, 1999

9 appeal considerations

June 22, 1999 - NO MEETING

June 29, 1999

6:00 Public Hearing: Ellis Act Amendments

Old Business:

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Proposed Amendments to Rules and Regulations Section 6.15
- C. Translation Services
- D. Minute Order Program

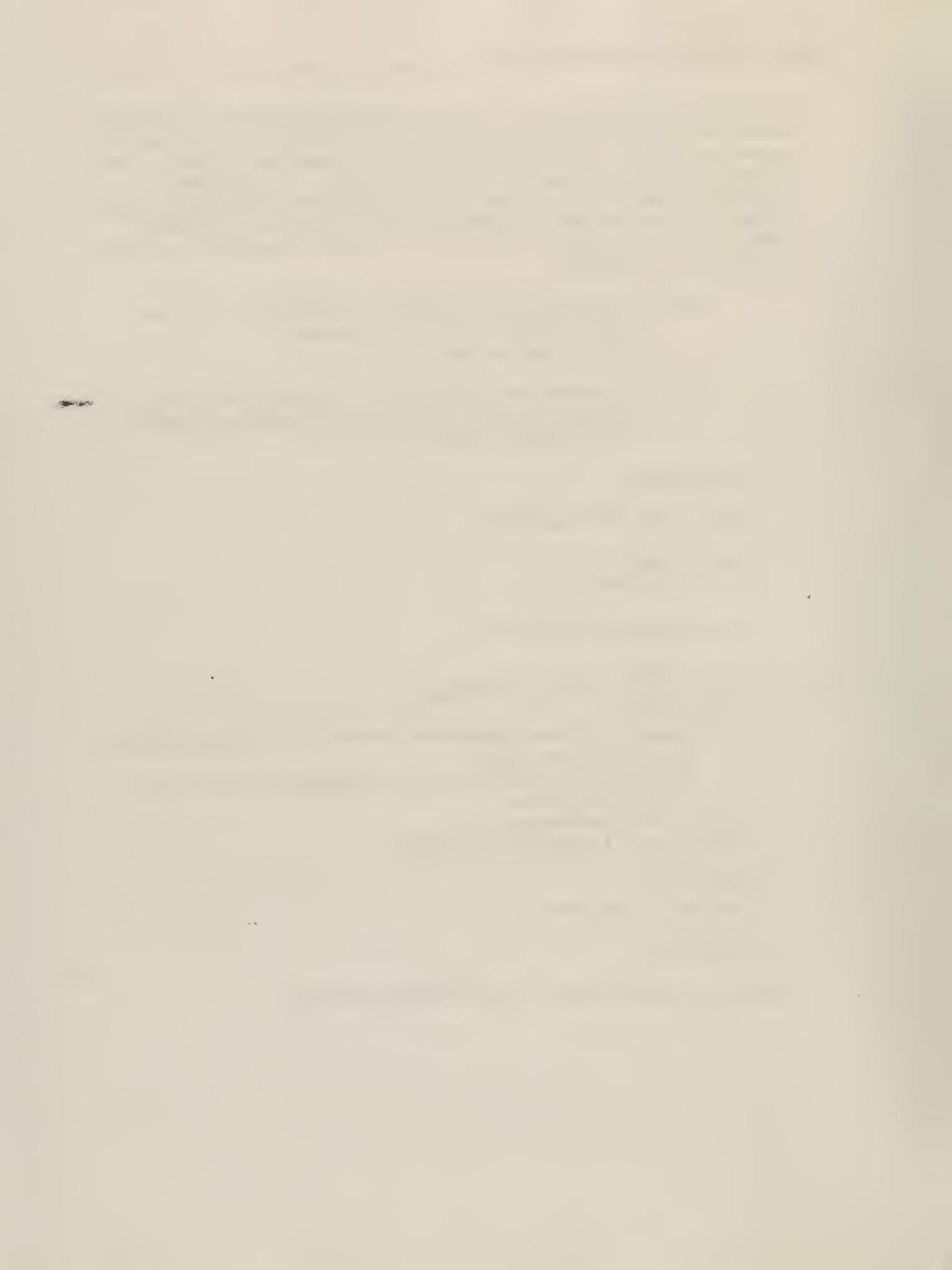
New Business: Commissioner Protocols

July 6, 1999

8 appeal considerations

X. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

15/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,
June 15, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

Fax Copy 1st Postd 6/10/99 C
DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

JUN 11 1999

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06-11-99PC1:16 RCV'D

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 73 Cumberland St. T001-62A

The landlord appeals a decision partially certifying capital improvement costs on the grounds that the "6-Month Rule" was improperly applied.

B. 261 - 23rd Ave. T001-83R

The tenant appeals the decision denying claims of decreased housing services, failure to repair and unlawful rent increase.

C. 469 - 8th Ave. T001-63A

The landlord appeals the decision partially granting claims of decreased housing services.

D. 529 Hugo St. T001-64A

The landlord appeals the dismissal of his petition for certification of capital improvement costs due to his failure to appear at the properly noticed hearing.

E. 331 Waller St. #3

T001-84R

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

F. 242 Turk St. #314

T001-87R

The tenant appeals the denial of his petition alleging unlawful rent increases.

G. 6678 Third St. #C

T001-89R

The tenant appeals the remand decision denying a claim of unlawful rent increase.

H. 801 - 25th Ave. #19

T001-67R

The tenant appeals the remand decision denying a claim of unlawful rent increase.

I. 2655 Pine St.

T001-65A

The landlord appeals the decision granting rent increases based on increased operating expenses but determining rent overpayments.

VI. Communications

VII. Director's Report

VIII. Old Business

Ellis Amendments

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, June 15, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Vice-President Marshall called the meeting to order at 6:16 p.m.

II. Roll Call

Commissioners Present: Bierly; Marshall; Mosser; Murphy.
Commissioners not Present: Becker; Gruber; Lightner; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:54 p.m.

III. Approval of the Minutes

DOCUMENTS DEPT.

MSC: To approve the Minutes of June 1, 1999.
(Murphy/Mosser: 3-0)

JUN 23 1999

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IV. Consideration of Appeals

A. 529 Hugo St. T001-64A

The landlord's petition for certification of capital improvement costs was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the landlord apologizes for having mixed up the date of the hearing and asks for the hearing to be rescheduled.

MSC: To accept the appeal and remand the case for a new hearing.
(Murphy/Mosser: 3-0)

B. 73 Cumberland St. T001-62A

The landlords' petition for certification of capital improvement costs was granted, in part. The costs of construction of a rear porch and deck were disallowed to the tenants in two units pursuant to Rules and Regulations Section 7.12(b) ("The 6-Month Rule"). On appeal, the landlords claim that, while some of the preliminary architectural and engineering design work occurred prior to the move-in date of the tenants in one unit, the physical construction did not commence until ten months after the move-in date. They

contend that prior cases have held that the date the actual physical construction commenced should be used for triggering the 6-Month Rule.

After discussion, it was agreed that this matter should be continued to the next meeting, when more Commissioners will be in attendance.

C. 261 - 23rd Ave.

T001-83R

The tenant's petition alleging substantial decreases in housing services, the landlord's failure to repair and unlawful rent increase was denied. The hearing officer found that a \$50 increase in rent was actually restoration of the prior agreed-upon base rent amount after discontinuation of a discount for the tenant's provision of management services. The tenant's habitability claims were determined to not be substantial or it was found that the landlord acted expeditiously to effectuate repairs and was hindered by an inflexible repair schedule of the tenant's choosing. On appeal, the tenant claims that the hearing officer was biased in favor of the landlord; that his managerial discount was in the amount of \$20, not \$50; that the leak and mildew problems in his bathroom are more serious than depicted by the hearing officer; and that he has been reasonable in providing access to the landlord

MSC: To accept the appeal and remand the case to the hearing officer on the record to examine the October 8, 1998 letter from the landlord to the tenant asking for reinstatement of the \$50.00 monthly discount in light of the finding that the tenant had failed to produce evidence of the amount of rent that he had been paying; a hearing will be held only if necessary.
(Murphy/Mosser: 3-0)

D. 469 - 8th Ave.

T001-63A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$4,972.50 due to habitability defects on the premises. On appeal, the landlords claim that: they should not be liable for problems that existed prior to their purchase of the property; they never received letters from the tenant regarding defects on the premises; the tenant has been uncooperative in providing access to the premises and has failed to move her belongings so that the ceiling could be painted; and the light over the mantle did not need repair as it was not broken.

After discussion, it was the consensus of the Board to continue consideration of this appeal to the June 29th Board meeting.

E. 331 Waller #3

T001-84R

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant

claims to have an unsecured mail box, and attaches a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Murphy/Mosser: 3-0)

F. 242 Turk St. #314

T001-87R

The tenant's petition alleging unlawful increases in rent was denied because the tenant failed to meet his burden of proof. On appeal, the tenant asserts that he did not move into the unit at the earliest date assumed by the hearing officer; and that he did not pay the original rental amount stated in the decision but, rather, received free rent from the Salvation Army as compensation for services that he provided.

MSC: To deny the appeal. (Mosser/Murphy: 3-0)

G. 6678 Third St. #C

T001-89R

The tenant's appeal of a decision granting a comparables increase based on the Past Rent History of a Proposition I Affected Unit was granted, and the case was remanded on the issue of the tenant's rent history, specifically, whether the tenant's base rent included a charge for a parking space. The hearing officer found that the carport on the premises was an additional housing service provided after the inception of the tenancy, for which the landlord was entitled to charge additional rent, and the \$30.00 rent increase was therefore lawful. The tenant again appeals, claiming that the prior owner knew that he was using the carport, charged no additional rent and, therefore, use of the carport was a housing service included in his base rent

MSC: To deny the appeal. (Mosser/Murphy: 3-0)

H. 801 - 25th Ave. #19

T001-67R

The tenant's petition alleging an unlawful rent increase was granted because the hearing officer found that there was a continuing, rather than new, tenancy. On appeal, the landlord claimed that there was no basis for finding that the petitioner had established a tenancy pursuant to Rules and Regulations Section 6.14. The landlord's appeal was accepted and the case was remanded for further hearing on this issue. The Decision on Remand overturns the original decision, finding that the landlord and resident manager never approved the subtenancy; and, while the resident manager had some contact with the petitioner, he was not aware that she was residing at the premises. The rent increase from \$712.50 to \$950.00 was therefore found to be lawful. The tenant appeals the remand decision, asserting that the resident manager and landlord lied at the remand hearing, and asking for another hearing in order to present new information.

MSC: To deny the appeal. (Mosser/Murphy: 3-0)

I. 2655 Pine St.

T001-65A

The landlord's petition for rent increases based on increased operating expenses was granted, in part. The majority of the landlord's claimed increased expenses, in the repair category, were disallowed because the hearing officer found that the disproportionate number of repairs performed in Year Two as opposed to Year One created exaggerated results. Additionally, rent overpayments in the amount of \$1,465.80 were determined to be owing to the tenants in unit #2, who moved to another unit in the building at a higher rent, which should have changed their anniversary date. The landlord appeals the decision on the grounds that: his due process rights were violated by the determination of rent overpayments having been made without a hearing on the issue; that the move to another unit was at the tenants' initiative and there was an agreement between the parties that their anniversary date in the other unit would be retained; that the necessity for repairs during the Year Two time period was not within his control; there are arithmetic errors in the decision; the hearing officer and Rent Board are biased against landlords; and his petition was not processed in a timely manner.

MSC: To accept the appeal and remand the case for a hearing only on the rent history of the tenants in unit #2; the decision is final as to all other issues. (Mosser/Murphy: 3-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memorandum from Senior Hearing Officer Sandy Gartzman regarding proposed amendments to Ordinance Section 37.9(a)(13) ("Ellis").

B. Judge David Garcia's Order Granting Writ of Mandate in the case of John Hickey Brokerage v. City and County of San Francisco (Superior Court Case No. 303023) and Order for Preliminary Injunction in Cynar v. City and County of San Francisco (Superior Court Case No. 303014).

C. Several newspaper articles concerning the rulings in the above-cited cases.

VI. Director's Report

Executive Director Grubb reported that the departmental budget had its first hearing before the Finance Committee of the Board of Supervisors today. Budget Analyst Harvey Rose is recommending that half of the new positions requested by the department be deleted. The public will have an opportunity to comment at a hearing to be held on Saturday, June 19th.

VII. Old Business

A. Ellis Amendments

The Commissioners discussed a recommendation from Deputy City Attorney Marie Blits that the package of suggested amendments to conform the Ordinance to the Ellis Act being forwarded from the Rent Board to the Board of Supervisors be further amended as follows below:

(13) The landlord, who does not have cause to evict under any other provision of this Section 37.9(a), wishes to withdraw from rent or lease all rental units within any detached physical structure and, in addition, in the case of any detached physical structure containing three or fewer rental units, any other rental units on the same lot, and complies in full with Section 37.9A with respect to each such unit; provided, however, that a unit classified as a residential unit under Chapter 41 of this Code which is vacated under this Section 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without compliance with the provisions of Section 41.9 of this Code; or

Since the Ellis Act does not require an owner to utilize other possible grounds for eviction before filing an eviction under the Ellis Act, the Courts are not requiring an owner to exhaust other grounds before proceeding under Ellis. Therefore, the Board voted as follows:

MSC: To adopt the additional proposed amendment in the Board's recommended package of Ellis Amendments to go before the Board of Supervisors. (Murphy/Mosser: 4-0)

VIII. Calendar Items

June 22, 1999 - NO MEETING

June 29, 1999

6:00 2 appeal considerations (cont. from 6/15/99)
Public Hearing: Proposed Repeal of Rules Section 12.18 (Ellis)

Old Business:

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Proposed Amendments to Rules and Regs. Section 6.15
- C. Translation Services
- D. Minute Order Program

New Business: Commissioner Protocols

July 6, 1999

8 appeal considerations

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:00 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

29/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,
June 29, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

Fax Copy 1st Posted 6/22/99
DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

JUN 23 1999

SAN FRANCISCO
PUBLIC LIBRARY

06-23-99 10:49 REFLR

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- V. Consideration of Appeals

A. 73 Cumberland St. T001-62A
(cont. from 6/15/99)

The landlord appeals a decision partially certifying capital
improvement costs on the grounds that the "6-Month Rule" was
improperly applied.

B. 469 - 8th Ave. T001-63A
(cont. from 6/15/99)

The landlord appeals the decision partially granting claims of
decreased housing services.

- VI. Public Hearing

6:00 Ellis Act Amendments:

Proposed Repeal of Rules and Regulations Section 12.18

- VI. Communications
- VII. Director's Report
- VIII. Old Business

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Proposed Amendments to Rules and Regulations Section 6.15
- C. Translation Services
- D. Minute Order Program

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

- Commissioner Protocols

XI. Calendar Items

XII. Adjournment

**City and County of San Francisco
DOCUMENTS DEPT.**



**Residential Rent Stabilization
and Arbitration Board**

JUN 18 1999

June 18, 1999

WILLIE L. BROWN, JR.
MAYOR

MERRIE T. LIGHTNER
PRESIDENT

SAN FRANCISCO
PUBLIC NOTICE

JOSEPH GRUBB
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
VICE-PRESIDENT

NOTICE OF PUBLIC HEARING

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY J. JUSTMAN
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

DATE: JUNE 29, 1999

TIME: 6:00 P.M.

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70 Lower Level
SAN FRANCISCO, CALIFORNIA

**PROPOSED AMENDMENTS TO RULES AND REGULATIONS
SECTION 12.18, PROCEDURES REGARDING EVICTIONS
UNDER SECTION 37.9(a)(11), DELETING SAME SECTION**

The Rent Stabilization and Arbitration Board Commissioners are proposing an amendment to the language in Section 12.18 of the Rules and Regulations. The Commission is proposing to delete the entire section of the Rules and Regulations as the provisions are provided for in the Ordinance.

Written comments may be submitted prior to the hearing. Persons wishing to respond should do so by noon Thursday June 24, 1999 to ensure that Commissioners have time to consider submissions. Oral testimony will also be taken on the 29th.

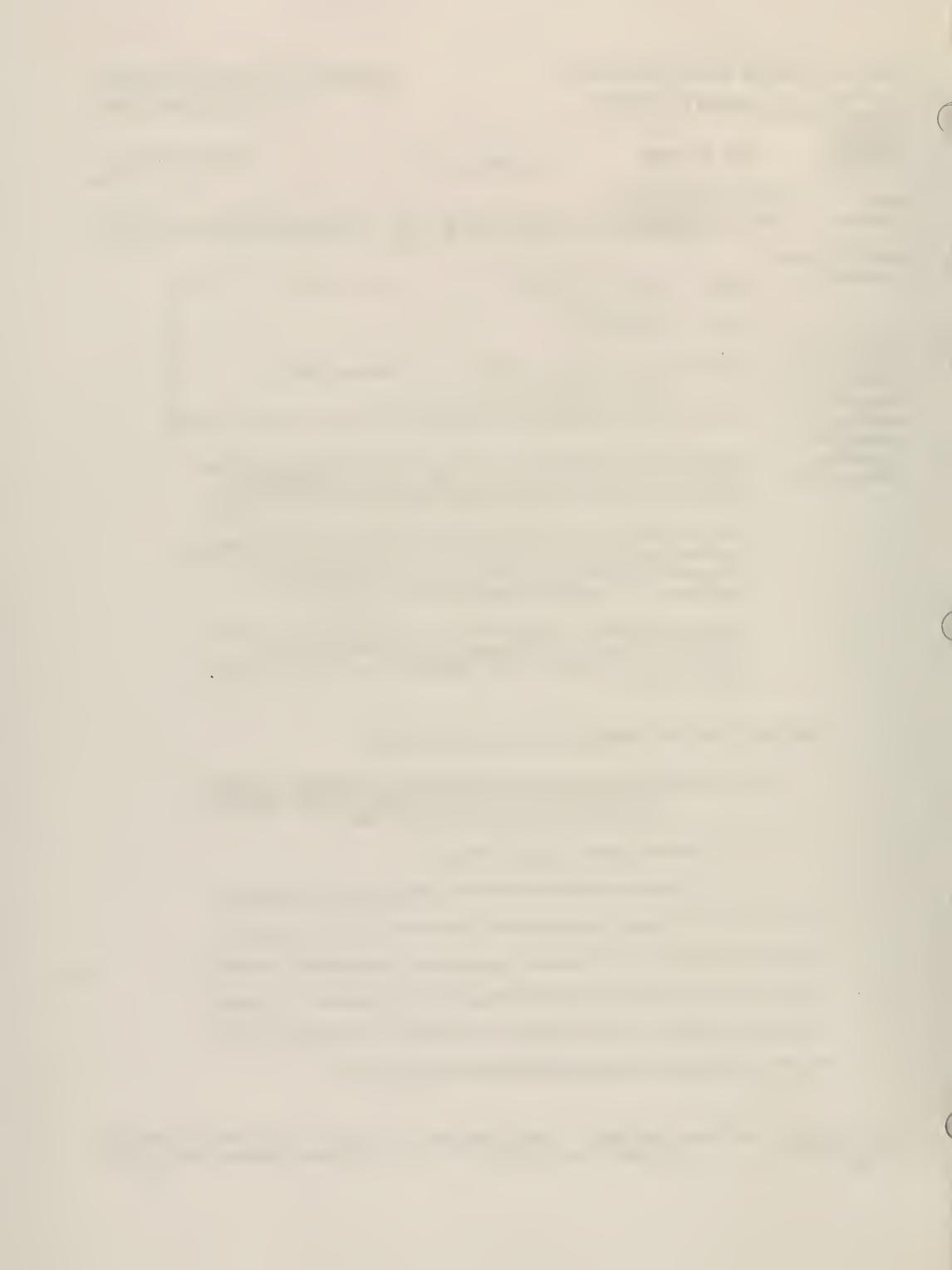
DELETION OF THE ENTIRE SECTION IS PROPOSED:

Section 12.18 Procedures Regarding Evictions under Section 37.9(a)(13)
(Formerly Section 12.17 adopted October 29, 1986; numerical correction to subsection (j) August 20, 1996)

(a) Notice of Intent to Board [37.9A(g)(1)]

Prior to service of any notice on tenants to terminate their tenancy

pursuant to Section 37.9(a)(13) of the Ordinance, the owner shall serve on the Board either by personal delivery or by registered or certified mail a written Notice of Intention to Withdraw on a form approved by the Board, together with a Memorandum of Notice as prescribed by Ordinance Section 37.9A(g)(2). Such Notice of Intention shall contain a statement under penalty of perjury providing the following information:



(1) The names and address of all owners of the property;
(2) The address of all residential units on the property;
(3) The legal description of the property;
(4) The name and address of each tenant residing on the property;
(5) The rent being charged each tenant at the time the notice to vacate is served on the tenants;

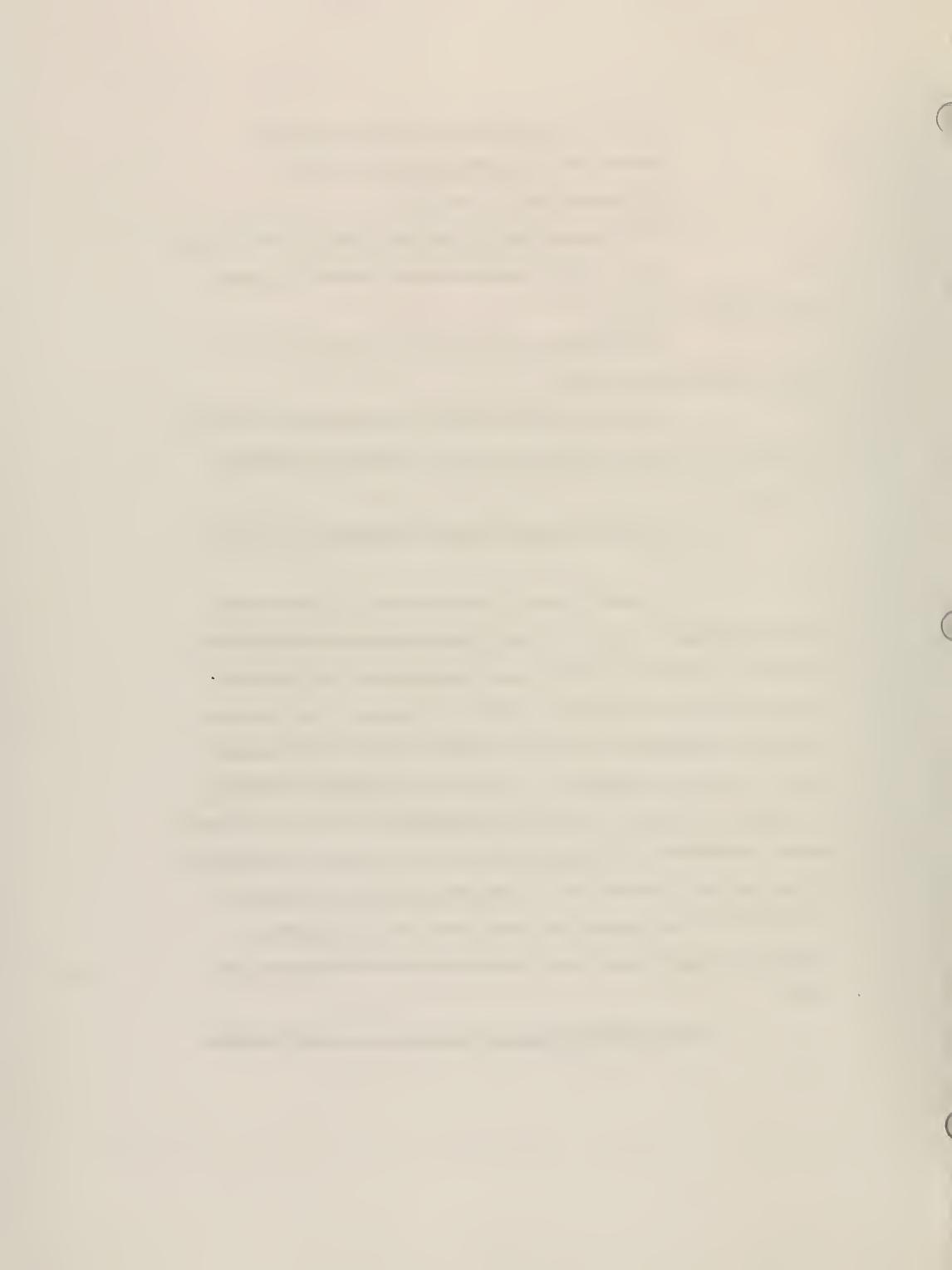
(6) The date tenancy commenced and the rent history for each tenant commencing April 1, 1981; and

(7) Any actions which the landlord has been required by law to file to terminate one or more existing tenancies at the property, other than under Section 37.9(a)(13).

(b) Board Determination of Sufficiency of Notice of Intent [37.9A(g)(1) & (3)]

If the owner provides all required information on the Notice of Intent submitted to the Board, the Board shall notify the owner and tenants that the notice and Memorandum are sufficient and that the notice is accepted for filing. The Board shall place on the Memorandum of Notice the statement required by section (c)(1) below and shall return the Memorandum to the owner for recording. If the owner fails to provide a complete notice, the Board shall return the notice to the owner stating in what respects it is incomplete. All information in the notice as submitted, other than the address and legal description of the property, shall be kept confidential and not made available to the public without a court order or the prior written consent of the individuals named therein. This restraint shall not prevent the Board from making public other documents which independently disclose information which would be considered confidential under this section.

(c) Owner's Obligation To Record Memorandum of Notice [37.9A(g)(2) & (h)]



(1) When the Board accepts a Notice of Intent for filing, the Board shall place on the related Memorandum a statement that restraints on the property under Ordinance Section 37.9A and Government Code Sections 7060.2 through 7060.4 will apply to the owner's successors in interest.

(2) Prior to the service of any notice to terminate tenancy pursuant to Section 37.9(a)(13) of the Ordinance and after the Board has accepted and filed the Notice of Intent to withdraw residential rental units and returned the related Memorandum of Notice, the owner shall record with the San Francisco County Recorder's Office a Memorandum of Notice regarding withdrawal of rental unit from rent or lease. The owner shall serve upon the Rent Board by personal delivery or first class mail a conformed copy of the recorded memorandum.

(d) Notice to Terminate Tenancy [37.9A(f) & (g)(4)]

(1) Any notice to terminate tenancy which relies on Rent Ordinance Section 37.9(a)(13) shall include notice of the following:

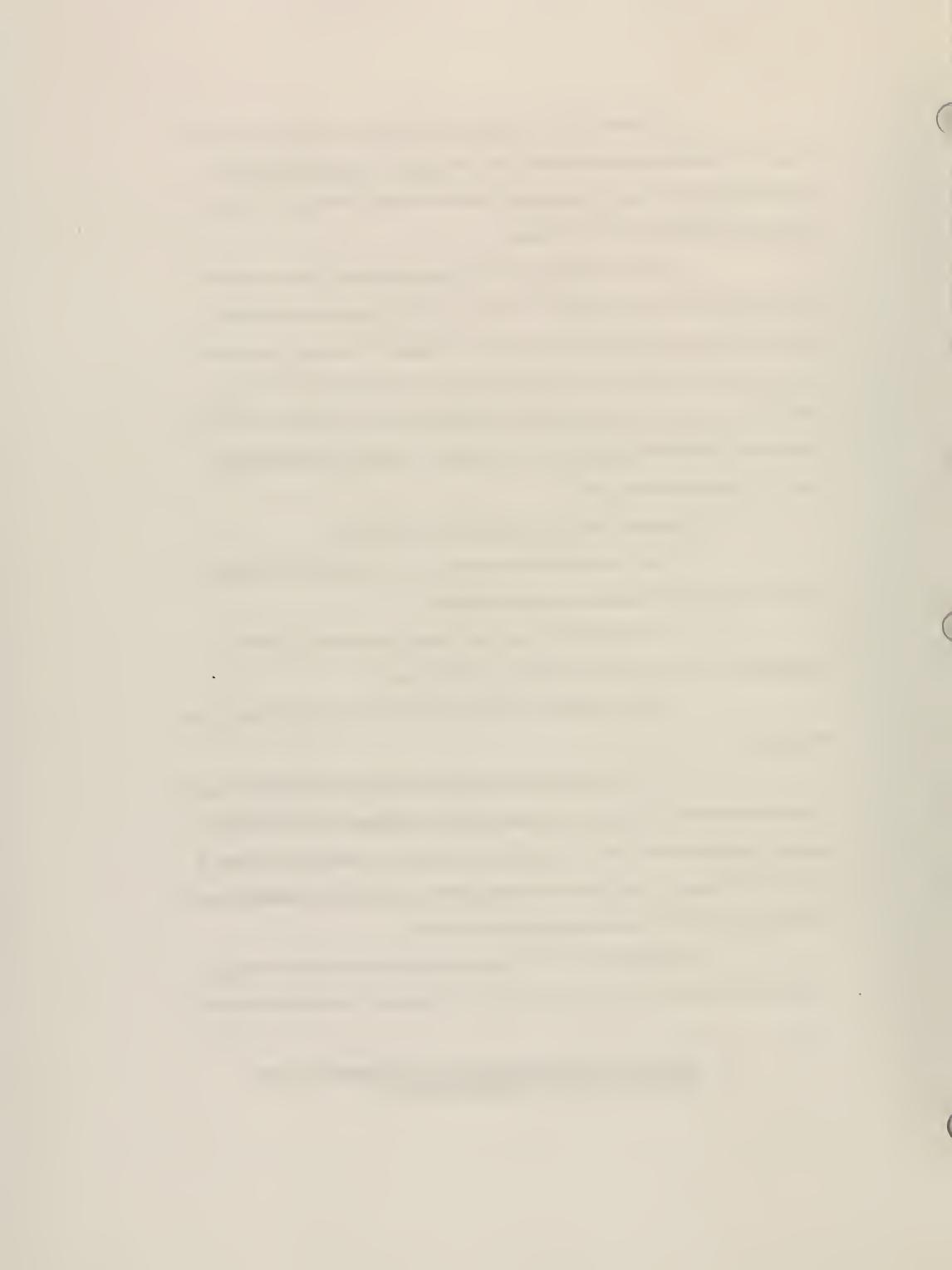
(A) that the Board has been notified of the owner's intent to withdraw the units, the tenant's name and amount of rent paid;

(B) the amount of rent stated on the owner's Notice of Intent to the Board; and

(C) that the tenant has rights and obligations under Section 37.9A, including the tenant's right to renew the tenancy if proper notification is given within 30 days after vacating the unit and the tenant's entitlement before vacating the premises to payment of the sum of \$1,500.00, \$1,750.00, \$2,500.00 or \$3,000.00, whichever amount the landlord in good faith believes due in the particular case.

(2) Within five (5) days of service of the notice to terminate tenancy, the owner shall serve a copy on the Board by personal delivery or certified or registered mail.

(e) Obligation of Tenant to Advise Owner and Board of Desire to Consider Renewal of Tenancy [37.9A(c)(1)]



Any tenant who is displaced by the withdrawal of a rental unit and who desires to consider an offer to renew the tenancy pursuant to Ordinance Section 37.9A(c) in the event the unit is again offered for rent or lease may notify the owner and the Board in writing within thirty (30) days after vacating the unit. This notice must include an address to which the owner's offer is to be directed. Displaced tenants should advise the owner and the Board of any change of address to which the offer is to be directed.

(f) Obligation of Owner To Notify Board Prior to Offering Previously Withdrawn Units For Rent Or Lease [37.9A(c)(2)]

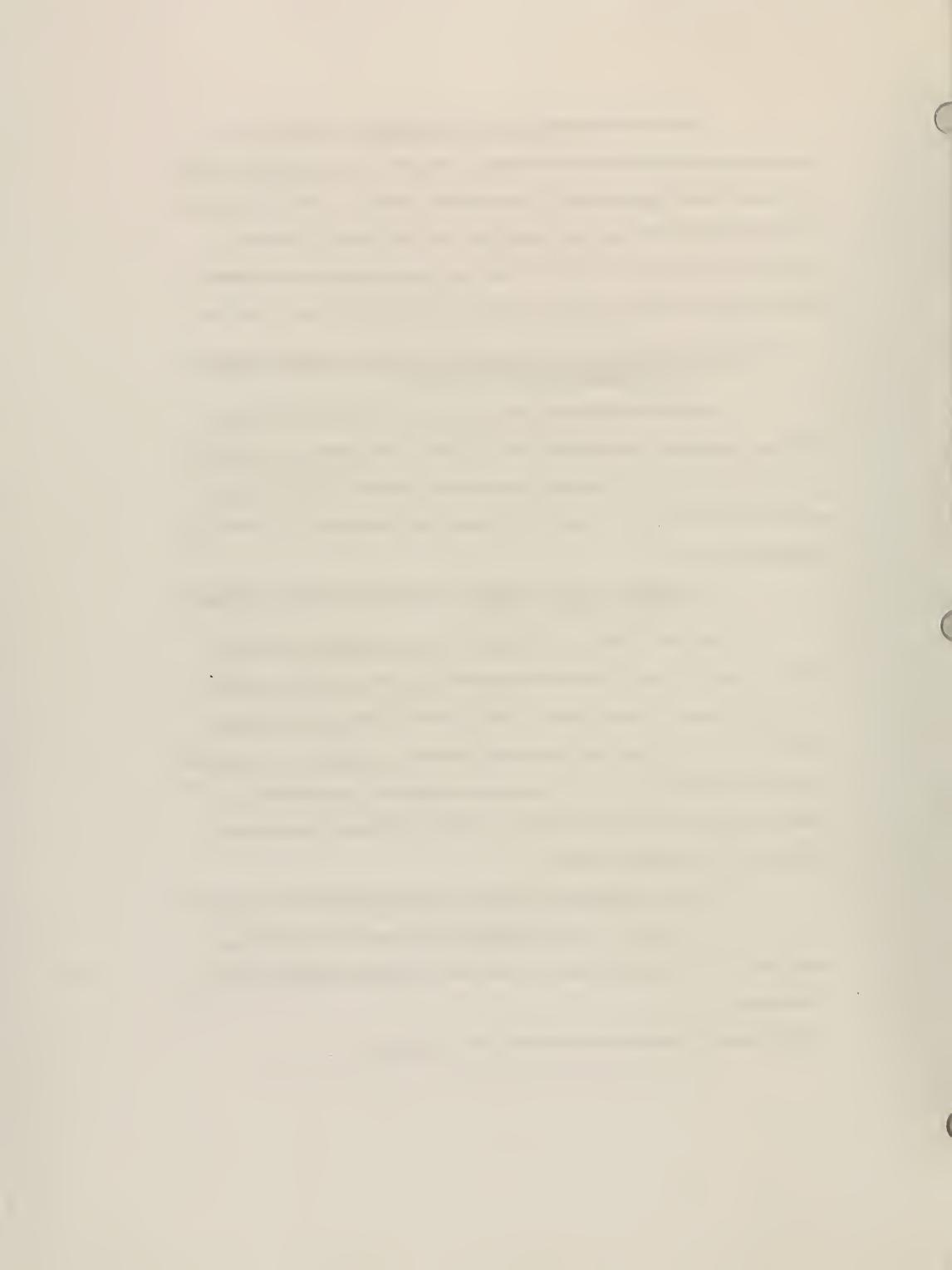
At least thirty (30) days prior to offering to rent or lease any previously withdrawn unit within ten years after the date on which the unit became vacant pursuant to Section 37.9(a)(13) of the Ordinance, the owner must first notify the Board in writing either by personal delivery or by registered or certified mail of the intention to offer the unit for residential rent or lease.

(g) Obligation of Owner to Offer Previously Withdrawn Units to Displaced Tenants [37.9A(c)(1) & (2)]

Whenever a previously withdrawn unit is again offered for rent or lease, the owner must first offer such unit to the displaced tenants who notified the owner and the Board pursuant to Ordinance Section 37.9A(c)(1) of their wish to consider such an offer. If the tenants did not so notify the owner of their wish to consider such an offer, the owner still must first offer such unit to the displaced tenants who request the offer in writing within thirty (30) days after the owner has notified the Board of an intention to offer the unit for residential rent or lease.

(h) Owner's Liability Under Ordinance Section 37.9A [37.9A(e) & (c)(2)]

(1) If the owner offers a previously withdrawn unit for rent or lease within one year after it became vacant, the owner may be liable to the displaced tenants for actual and punitive damages as provided by Ordinance Section 37.9A(e).



(2) If the owner fails to offer previously withdrawn units to displaced tenants as prescribed by Ordinance Section 37.9A(c)(2), the owner may be liable to the displaced tenants for punitive damages as provided by Ordinance Section 37.9A(c)(2).

(i) Maximum Rents On Withdrawn Units Subsequently Offered For Rent Or Lease [37.9A(a)]

If one or more units withdrawn under Ordinance Section 37.9(a)(13) are subsequently offered for rent or lease, the maximum rent for such unit(s) is that which would have been allowed had the prior tenants remained in continuous occupancy. The owner must first petition the Board for an arbitration hearing to impose rent increases which exceed the limitations set forth in Part 4 of these Regulations.

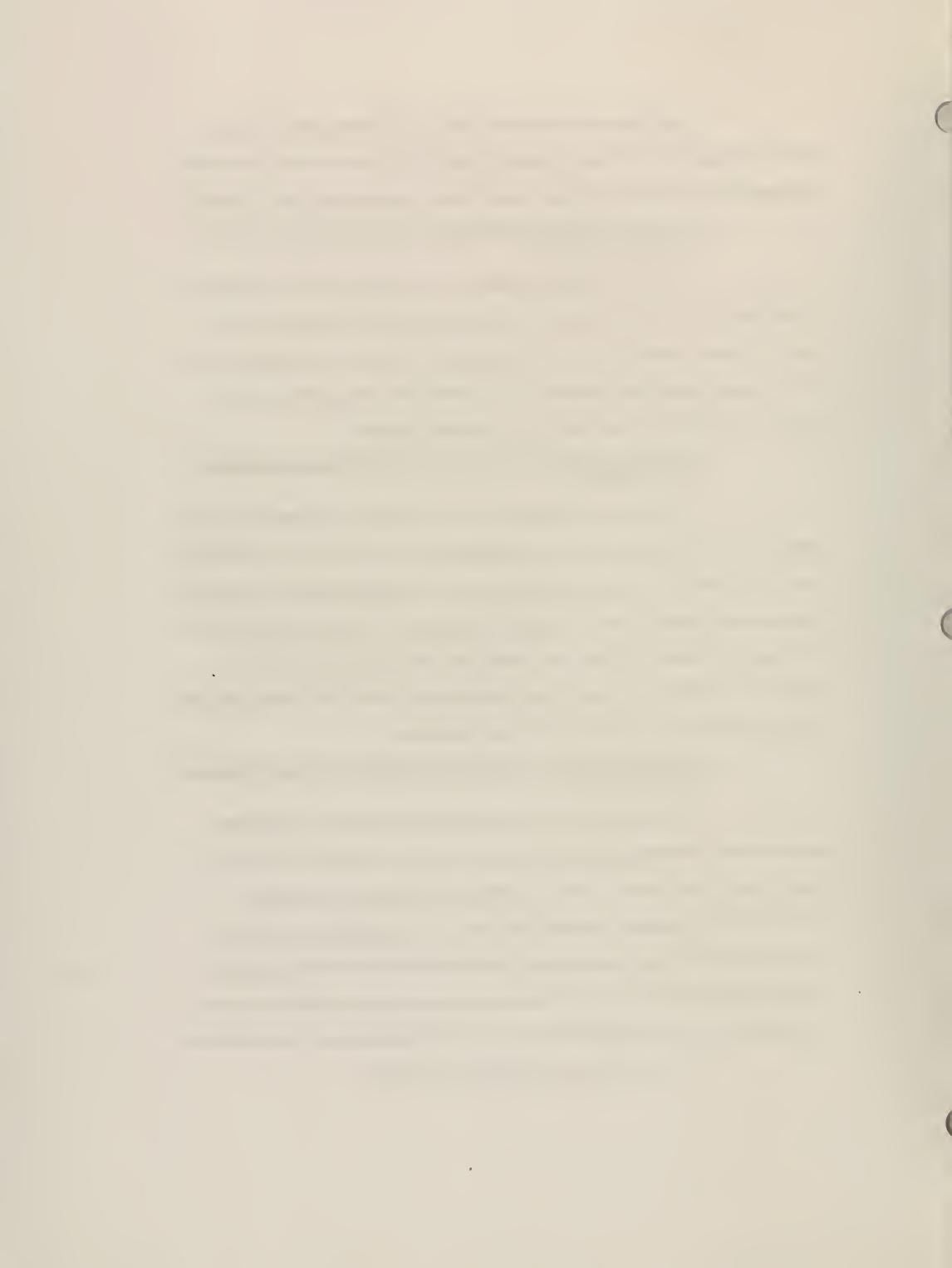
(j) Units Constructed On The Same Property As Previously Withdrawn Units [37.9A(b)]

If one or more new residential rental units are constructed on the same property from which units were withdrawn and demolished, and such units are offered for rent or lease within five (5) years of the date the last of the original units became vacant, the newly constructed units shall be subject to the provisions of the San Francisco Rent Ordinance, notwithstanding Section 37.2(p)(5) or any other provision of the Rent Ordinance. The Board shall determine the allowable rents on the newly constructed units which are necessary to provide a fair and reasonable return.

(k) Owner's Obligation to Report the Status of the Withdrawn Units to the Board [37.9A(i)]

(1) For a period of five years from the date the Board accepts the Notice of Intent to Withdraw, the owner and any successor in interest must report to the Board in writing under penalty of perjury by either personal delivery or certified or registered mail of the status of the withdrawn units. Such report must be submitted no later than the third and sixth calendar months following the month in which the Notice of Intent is accepted by the Board and thereafter annually no later than December 31st of each calendar year. Such report shall provide the following information for each such unit:

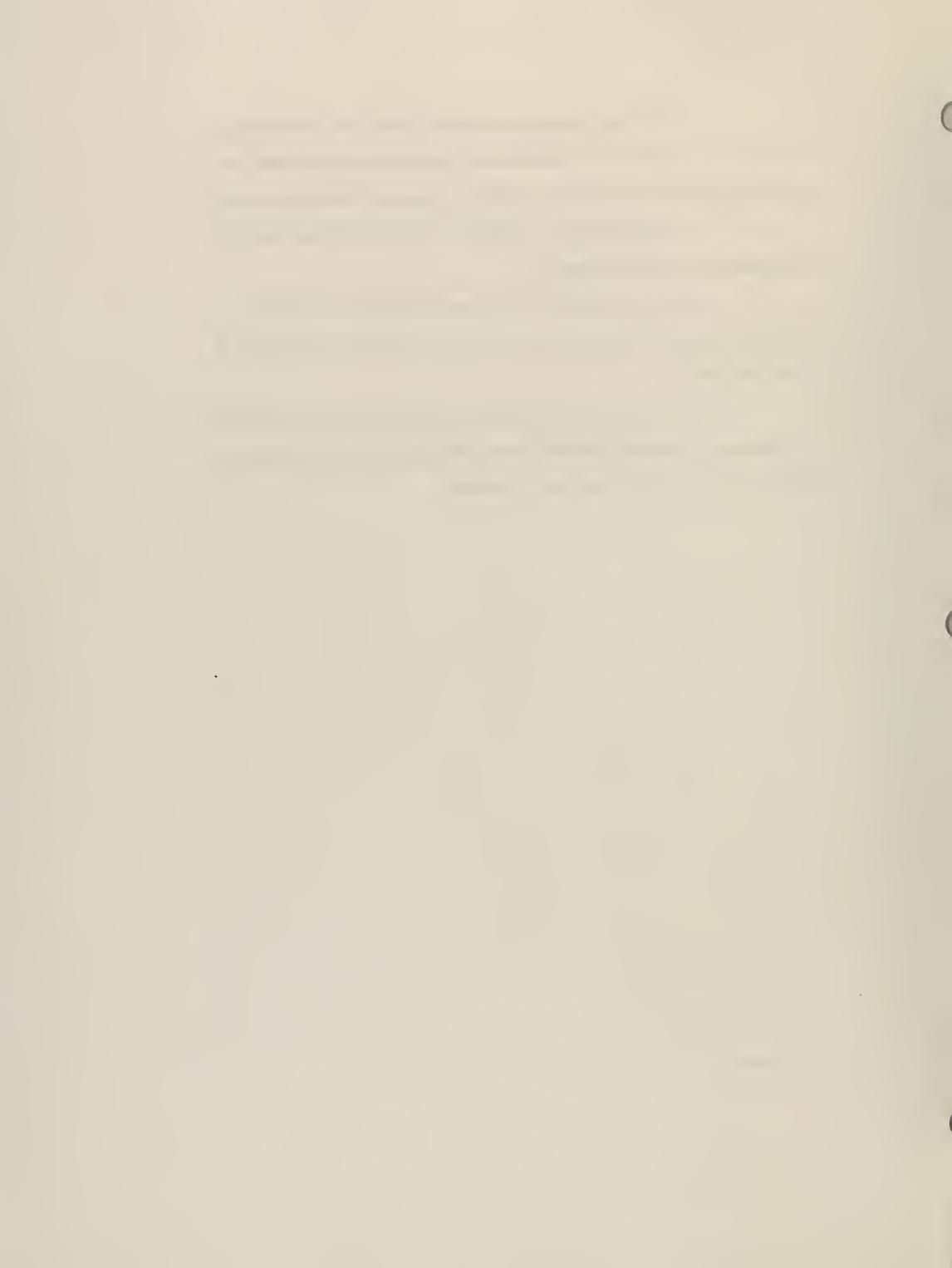
(A) whether the unit has been demolished;



(B) if not, whether it is in use and whether it is in residential use;
(C) if the unit has been demolished and one or more new units have been constructed on the property, whether any units are in residential use; and
(D) the date any residential tenancy began, the name(s) of the tenant(s) and the amount of rent charged.

(2) The Board shall maintain a record of such reports and may investigate the status of the property when such reports are improperly completed or untimely submitted.

(3) The Board shall endeavor to notify each person who is reported as having become a tenant at the property that the Board maintains a record of such reports and that the rent of the unit may be restricted.



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

SHARON K. WASSERMAN
PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, June 29, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JUL 08 1999

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SHIRLEY A. BIERLY
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ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:03 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner;

Wasserman.

Commissioners not Present: Justman; Murphy.

Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 6:05 p.m.;
Commissioner Mosser arrived at the meeting at 6:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 15, 1999.
(Becker/Marshall: 3-0)

IV. Remarks from the Public

A. Landlord Tom Garber addressed the issue of interest rates when capital improvement work is financed with a variable rate mortgage. He informed the Board that all available loans for such purposes are variable; that he is currently paying 12%; and that business loans charge 3 1/2 - 4% above prime.

B. A landlord stated her belief that under rent control, landlords are treated badly and that rental units are being taken off the market as a result.

V. Public Hearing

Ellis Act Amendments

At the request of President Wasserman, Senior Hearing Officer Sandy Gartzman explained that she had proposed that the Board delete Rules and Regulations Section 12.18 because the procedures contained therein currently make it difficult for landlords to exercise their right to withdraw units from the rental market; and that the Regulations are unnecessary, in that all necessary

procedures are contained in the Rent Ordinance. At 6:11 p.m. a Public Hearing on the proposed change to the Rules and Regulations was convened, which was concluded at 6:21 p.m. The following individuals spoke as follows below:

A. Landlord Anthony Schultz, owner of a 3-unit building, said that his building is "falling down", and he needs to take it out of rental use in order to work on it.

B. Janan New from the S.F. Apartment Association thanked staff and the Commissioners for recommending necessary amendments to bring the Rules and Regulations into compliance with State law, and stated her belief that other areas of the Rules and Regs. also need to be amended for this reason.

Upon conclusion of the public testimony, the Board voted as follows:

MSC: To delete Rules and Regulations Section 12.18 in its entirety.
(Lightner/Becker: 5-0)

Ms. Gartzman then gave the Commissioners a Memorandum regarding procedures that staff will follow to implement the Board's action prior to the Board of Supervisors' acting on recommended changes to the Ellis provisions of the Rent Ordinance {Ordinance Section 37.9(a)(13)}.

V. Consideration of Appeals

A. 73 Cumberland St.

T001-62A
(cont. from 6/15/99)

The landlords' petition for certification of capital improvement costs was granted, in part. The costs of construction of a rear porch and deck were disallowed to the tenants in two units pursuant to Rules and Regulations Section 7.12(b) ("The 6-Month Rule"). On appeal, the landlords claim that, while some of the preliminary architectural and engineering design work occurred prior to the move-in date of the tenants in one unit, the physical construction did not commence until ten months after the move-in date. They contend that prior cases have held that the date the actual physical construction commenced should be used for triggering the 6-Month Rule.

MSC: To accept the appeal and remand the case for a hearing to determine what representations, if any, were made to the tenants at the inception of the tenancy regarding the capital improvement project.
(Becker/Marshall: 4-1; Gruber dissenting)

B. 469 - 8th Ave.

T001-63A
(cont. from 6/15/99)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlords were found liable to the tenant in the amount

of \$4,972.50 due to habitability defects on the premises. On appeal, the landlords claim that: they should not be liable for problems that existed prior to their purchase of the property; they never received letters from the tenant regarding defects on the premises; the tenant has been uncooperative in providing access to the premises and has failed to move her belongings so that the ceiling could be painted; and the light over the mantle did not need repair as it was not broken.

MSC: To accept the appeal and remand the case for a hearing to determine whether any of the conditions have been abated and, if so, the date the rent reductions should terminate.
(Marshall/Becker: 3-2; Gruber, Lightner dissenting)

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A letter from Attorney Nancy Lenvin on behalf of the Housing Industry Policy Council (HIPC) requesting that the Board amend Rules and Regulations Section 6.14 in light of the Costa-Hawkins Rental Housing Act.
- B. The office workload statistics for the month of May, 1999.

VIII. Director's Report

Executive Director Grubb reported that the departmental budget was approved by the Board of Supervisors. The Supervisors added an additional hearing officer position to those that had been requested by the department. That position has been placed on reserve, and the funds will be released only if necessary.

IX. Old Business

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

The Board continued their discussion of a proposal by Commissioner Lightner to raise the rate of interest allowed landlords who finance capital improvement work with a variable rate loan, since the imputed interest rate is currently less than the "teaser rate" on such loans. The possibility of having three different interest rates was examined: one for fixed rate loans; one for variable rate loans; and an imputed interest rate. In conjunction with retention of the 10% "cap" on interest, Commissioner Wasserman asked to see interest rate indexes for the past several years. Discussion of this issue will be continued at the July 20th meeting.

- B. Proposed Amendments to Rules and Regulations Section 6.15

Discussion of proposed amendments to Rules Section 6.15 authored by Commissioner Lightner to address rent increase and eviction issues where there is an absolute prohibition against subletting and assignment was continued until the meeting on July 20th. Supervisor Leno has introduced legislation addressing this issue which will be considered at a continued meeting of the Housing and Land Use Committee on July 6th.

C. Translation Services

In response to several requests from the Chinese community, and at the Board's direction, Mr. Grubb investigated the costs of providing translation services at Board meetings and Public Hearings. Translators charge \$120 per hour, with a 2-hour minimum. In order to make such translation effective, transmitters and ear pieces would need to be purchased at a cost of approximately \$5,000.00. Since such expenditures were not budgeted for, the Commissioners suggested that the Director investigate the possibility of borrowing the necessary equipment from another agency. The Board will attempt to provide translation for all Public Hearings and at regular Board meetings only upon request.

D. Minute Order Program

Senior Hearing Officer Sandy Gartzman informed the Board that the Minute Order Pilot Project is now 6 months old, and is an unqualified success. An average of 20 Minute Orders are issued each month and, out of approximately 100 Minute Orders, there has only been one request for issuance of a full decision. The Board gave the continuation of this program their blessing, and thanked Ms. Gartzman and the hearing officer staff for their hard work on this enhancement of the agency's service to the public.

IV. Remarks from the Public (cont.)

C. A landlord informed the Board that a fire in her building was caused by an illegal sublessee, and that she is now facing a lawsuit for wrongful eviction.

D. A landlord spoke about the pending legislation sponsored by Supervisor Leno, and expressed his belief that tenants should be required to submit prior written notice prior to subletting because subtenants are moving in prior to submitting rental applications.

E. Landlord Gary Briggs expressed his belief that San Francisco neighborhoods are "run down" because the capital improvement certification process is too complicated and the interest rates allowed are too low. He also contended that, because of subletting, in most cases the tenants who signed the lease with the landlord are no longer living in the unit.

F. A Chinese speaker said that the translation services provided were inadequate and requested that the Board borrow transmitters and ear pieces from City Hall.

G. A landlord asked who is liable if a sublessee turns out to be a criminal, and said that revolving roommate situations are more like hotels than residential units.

H. A landlord expressed support for expenditures for translation services. He said that he lives in his building, and that his tenants shouldn't get to decide who lives with him. He suggested that the Board institute a "residency requirement" in order to address the issue of "pied a terres."

X. New Business

Commissioner Protocols

Commissioner Lightner relayed concerns from the landlord community about the way that the Housing and Land Use Committee of the Board of Supervisors hearing on the Leno legislation was conducted on June 1st. She said that, because Tenant Commissioners Marshall and Becker spoke without time limitations, it appeared to some people that the Rent Board had sponsored the proposed legislation.

XI. Calendar Items

July 6, 1999

8 appeal considerations

July 13, 1999 - NO MEETING

July 20, 1999

10 appeal considerations (1 cont. from 6/1/99)

Old Business:

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Proposed Amendments to Rules and Regulations Section 6.15

XII. Adjournment

President Wasserman adjourned the meeting at 9:00 p.m.

City and County of San Francisco

Residential Rent Stabilization
and Arbitration BoardNOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.
MAYORSHARON K. WASSERMAN
PRESIDENTPOLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

July 6, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUHN
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

199
 LARRY BEACH BECKER
 SHIRLEY A. BIRKLY
 DAVID GUSTAV GRUBER
 ANTHONY JUSTMAN
 MERRIE T. LIGHTNER
 EVERETT Q. MOORE
 NEVIO MOSSER
 BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

JUL 06 1999

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07-06-99A 11:04 PCD

NOTE: Pursuant to Section 2.10(c) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 400 Hyde St. T001-68A; T001-94R

The landlord appeals the decision certifying capital improvement costs but allowing only the imputed interest rate when the work was financed with a variable rate mortgage; rent overpayments were also determined. One tenant appeals the decision based on financial hardship.

B. 286 Arlington St. T001-66A

The landlord appeals the decision granting rent reductions due to decreased housing services.

C. 828 Anza St. #3 T001-90R

One tenant appeals the decision certifying capital improvement costs.

D. 6678 A-D 3rd St. T001-67A

The landlord appeals the Administrative Dismissal of her petition seeking rent increases based on increased operating expenses.

Page 2 of the Agenda of July 6, 1999

E. 71 Sharon St.

T001-69A

The landlord appeals the decision granting rent reductions due to decreased housing services.

F. 405 - 18th Ave.

T001-92R

The tenant appeals the remand decision denying her petition for rent reduction based on the loss of quiet enjoyment of her unit.

G. 250 Castro St. #2 & #7

T001-91R & -93R

Two tenants appeal the decision certifying capital improvement costs, alleging improper application of "The 6-Month Rule."

H. 1935 Franklin St. #503

T001-70A

The landlord appeals the decision granting a claim of unlawful rent increase in a case involving assignment of rental units.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN

PRESIDENT

199

POLLY MARSHALL
VICE-PRESIDENT

MAYOR

JOSEPH GRUBB

EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, July 6, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Wasserman called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Lightner; Mosser;
Wasserman.

Commissioners not Present: Marshall; Murphy.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:13 p.m.;
Commissioner Gruber arrived at the meeting at 6:16 p.m.

DOCUMENTS DEP

III. Approval of the Minutes

MSC: To approve the Minutes of June 29, 1999.
(Becker/Lightner: 5-0)

JUL 09 1999

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IV. Consideration of Appeals

A. 400 Hyde St.

T001-68A; T001-94R

The landlord's petition for certification of capital improvement costs for forty-two out of sixty-nine units was granted, in part. Additionally, rent overcharges were determined to be owing to the tenants in three units. One tenant appeals the decision on the grounds of financial hardship. The landlord appeals on the following issues: a new security camera, monitor and VCR added to the safety of the building and should have been certified; the maximum interest rate of 10% should have been granted because, although the work was financed with variable rate loans, the minimum amount the landlord was obligated to pay would always exceed 10%; the rent increase calculation errors are "de minimus" and should not result in the entirety of the rent increases being held to be null and void; and there is an error in the rent history for the tenant in unit #100.

MSC: To recuse Commissioner Lightner from consideration of this case. (Lightner/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #507 and remand the case for a hearing on the claim of financial hardship.
(Becker/Bierly: 4-0)

MSC: To accept the landlord's appeal and remand the case to the hearing officer on the record to certify the costs of the security system and to correct the rent history for the tenant in unit #100.
(Becker/Bierly: 4-0)

B. 286 Arlington St.

T001-66A

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$3,045.00 due to serious habitability defects on the premises. The landlord failed to appear at the hearing, allegedly because she undertook repairs to the premises with the understanding that the tenant would withdraw the petition. On appeal, the landlord claims that: the tenant failed to prove long-term notice to the landlord regarding the lack of heat and cracked window pane; the kitchen sink had been repaired prior to the date of the hearing; and the amounts granted present the landlord with a financial hardship.

MSC: To accept the appeal and remand the case for a new hearing and to consider the landlord's claim of financial hardship. The landlord and her attorney are advised that the tenant is entitled to pay the base rent amount authorized in the Decision of Hearing Officer, and any eviction attempt could lead to referral to the District Attorney for criminal prosecution.
(Lightner/Gruber: 5-0)

C. 828 Anza St. #3

T001-90R

The landlord's petition for certification of capital improvement costs to ten of twelve units was granted. One tenant appeals the decision, claiming that: the work performed constitutes maintenance and not capital improvement; and the work does not add value to the property because nothing new has been added that didn't already exist.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. 6678 A-D 3rd St.

T001-67A

The landlord's petition for rent increases to the tenants in four units based on increased operating expenses was administratively dismissed without hearing due to defects in the petition. On appeal, the landlord claims that the staff member who processed her petition exhibited bias against her and did not offer assistance in curing the defects in the petition; that she was not able to obtain copies of bills incurred by the prior owner; and that the information submitted is sufficient to warrant the scheduling of a hearing on the petition.

MSC: To deny the appeal. (Becker/Bierly: 5-0)

E. 71 Sharon St.

T001-69A

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable in the amount of \$2,490.00 due to code violations on the premises. Additionally, the tenants' failure to repair claim was granted and an annual rent increase was deferred for two months. On appeal, the landlords maintain that certain of the repairs having to do with the physical appearance of the unit have been effectuated and that the damage to the walls in the unit was not substantial.

After discussion, it was the consensus of the Board to continue consideration of the landlords' appeal to the meeting on July 20th, in order to consolidate it with an appeal filed by the tenants in this case.

F. 405 - 18th Ave.

T001-92R

The tenant's petition alleging decreased services based on loss of quiet enjoyment and increased electrical bills during a period of construction work was granted. The hearing officer had found that removal of a loft in the commercial unit below the tenant's unit caused the tenant to experience ongoing noise from the commercial unit, because the loft had served as a sound barrier. Upon appeal by the landlord the case was remanded for a hearing to determine whether the noise level was legally permissible and, if so, then no rent reduction was to be granted. Accordingly, on remand, the tenant's petition was denied as to this issue. The tenant appeals the remand decision, claiming that there is no way for her to prove that the sound is now significantly louder than it was before, since she has no evidence from prior to the renovation.

MSC: To deny the appeal. (Bierly/Gruber: 5-0)

G. 250 Castro St. #2 & #7

T001-91R & -93R

The landlord's petition for certification of capital improvement costs to six of eight units was granted, in part. Two tenants appeal the decision. The tenant in unit #2 claims that the rent history provided by the landlord is incorrect as to his unit; that repairs necessitated by a prior occupant of the unit should not be passed through to him and that certain of the work was performed prior to his occupancy of the unit; that he had an agreement with the landlord that only 50% of the cost of refinishing the floors would be his responsibility; and the cost of the work is excessive. The tenant in unit #7 asserts that he has received an unlawful rent increase and that the 6-Month Rule should preclude him paying for some of the certified amounts.

MSC: To accept the appeals and remand the case for a hearing on the rent histories of the tenants in units #2 & #7 and to make necessary adjustments, if any, to the application of the 6-Month Rule for these tenants and the tenant in unit #4.

(Becker/Bierly: 5-0)

H. 1935 Franklin St. #503

T001-70A

The tenants' petition alleging an unlawful rent increase from \$930 to \$1,650.00 per month was granted. The tenants had switched apartments with the tenants in another unit in the building and created an assignment of the tenancies at the same rent with the consent of the prior resident manager of the building. Therefore, the hearing officer found the tenants to be "original tenants" within the meaning of Rules and Regulations Section 6.14. On appeal, the landlord asserts that: pursuant to the provisions of Civil Code Section 1954.53 (Costa-Hawkins), the landlord has the right to increase the rent because the tenants did not occupy the rental unit prior to January 1, 1996; a landlord's knowledge or consent to an occupancy is not consent to a rent level as the issues are separate and distinct and the tenants cannot assign a statutory right held by the owner; the tenants in this case engaged in a concerted effort to obtain a larger apartment without having to pay market rent for the unit; and the hearing officer failed to make the tenants meet their burden of proving the rent increase to be illegal but, rather, put the onus on the landlord to prove that the increase was lawful.

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Becker/Justman: 5-0)

After discussion, the Commissioners continued this case to the meeting on August 3rd, when there will be more voting members present.

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from five tenants concerning several cases involving the property at 2211 Castro Street, questioning legal ownership of the building.

B. A letter from four property owners regarding the Public Hearing held on June 29th.

VI. Director's Report

Executive Director Grubb informed the Board that the proposed legislation regarding absolute prohibitions against subletting and assignment sponsored by Supervisor Leno came before the Housing and Land Use Committee of the Board of Supervisors for continued hearing this afternoon. The Committee members referred several questions regarding the legislation to the Office of the City Attorney. Mr. Grubb also told the Board that the Mayor's Office is hoping to have an Alternate appointed for Tenant Commissioner Becker by July 15th, as well as reappointment of current Commissioners whose terms are up.

VII. Remarks from the Public

The tenant involved in the case at 1935 Franklin St. #503 (T001-70A) inquired as to the disposition of the landlord's appeal.

VIII. Calendar Items

July 13, 1999 - NO MEETING

July 20, 1999

10 appeal considerations (1 cont. from 6/1/99)

Old Business:

Interest Rate When Capital Improvement Work is Financed With a
Variable Rate Mortgage

IX. Adjournment

President Wasserman adjourned the meeting at 7:30 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

0/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

TUESDAY, 6:00 P.M.,
JULY 20, 1999

25 VAN NESS AVENUE, #70, LOWER LEVEL DOCUMENTS DEPT.

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

JUL 09 1999

SAN FRANCISCO
PUBLIC LIBRARY

7-09-99 11

fax copy 1st posted 7/8/99

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 71 Sharon St. T002-06R & T001-69A
(cont. from 7/6/99)

The landlords and tenants appeal the decision granting rent reductions due to decreased housing services and a claim that the landlords failed to make requested repairs.

B. 761 Treat Ave. T001-60A
(cont. from 6/1/99)

The landlord appeals the decision granting rent reductions due to decreased housing services.

C. 3751 Cesar Chavez (Army) St. T001-71A

The landlord appeals the decision granting a claim of unlawful rent increase.

D. 211 Cornwall St. T001-96R

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

E. 3414 - 25th St. #1 T001-95R



The tenant appeals the dismissal of her petition alleging substantial decreases in housing services.

F. 447-1/2 - 4th Ave. T001-98R

Two tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

G. 730 Stockton St. T001-72A

The landlord appeals the remand decision determining rent overpayments.

H. 1582 - 22nd Ave. T001-73A

The landlord appeals the decision denying a rent increase based on comparables but adjusting a determination of rent overpayments.

I. 640 Eddy St. #106 T001-99R

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

J. 733 Waller St. T001-74R

The landlord appeals the allocation method used in a decision certifying capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, July 20, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Bierly; Gruber; Marshall; Wasserman.
Commissioners not Present: Becker; Lightner; Mosser.
Staff Present: Grubb.

Commissioner Murphy appeared on the record at 6:10 p.m.;
Commissioner Justman appeared on the record at 6:25 p.m.

DOCUMENTS DEPT.

III. Approval of the Minutes

MSC: To approve the Minutes of July 6, 1999.
(Gruber/Marshall: 3-0)

JUL 28 1999

SAN FRANCISCO
PUBLIC LIBRARY

IV. Consideration of Appeals

A. 71 Sharon St.

T001-69A & T002-06R
(Cont. from 7/6/99)

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable in the amount of \$2,490.00 due to code violations on the premises. Additionally, the tenants' failure to repair claim was granted and an annual rent increase was deferred for two months. On appeal, the landlords maintain that certain of the repairs having to do with the physical appearance of the unit have been effectuated; the rent reductions granted for the wall damage should terminate at an earlier time; and that the damage to the walls in the unit was not substantial.

MSC: To accept the landlord's appeal and remand to the hearing officer on the record, if possible, to determine the date the holes were repaired and determine the amounts owed.
(Gruber/Murphy: 3-0)

MSC: To deny the tenants' appeal.
(Gruber/Murphy: 3-0)

B. 761 Treat Ave.

T001-60A
(Cont. from 6/1/99)

The tenant's petition was denied as to claims of unlawful rent increase and the landlord's failure to repair. A claim of decreased housing services was granted, however, and the landlord was found liable to the tenant in the amount of \$1,885.00. The landlord failed to appear at the second hearing held in this case and, on appeal, claims not to have received the Notice of Hearing or copies of the "complaint." After having been sent copies of the petition and Declaration of Non-Receipt of Notice of Hearing, nothing further was received from the landlord. At the meeting on June 1, 1999, it was the consensus of the Board to continue this matter in order for staff to attempt to contact the landlord through certified mail.

MSC: To deny the appeal.
(Wasserman/Marshall 3-0)

C. 3751 Cesar Chavez (Army) St.

T001-71A

The tenant's petition alleging unlawful increases in rent was granted, and the landlords were found liable to the tenant in the amount of \$16,560.00. The subject two-unit building had been exempt from Rent Board jurisdiction until the death of one of the owners in 1987. Since the owner died intestate, the Court set aside a Homestead to his wife, the surviving spouse, and distributed a one-third interest in the property to her, and a 1/3 interest to each of the couple's two daughters. Therefore, the property was no longer exempt at the time that rent increases were given in 1987, 1989, and 1992. The current owners took title to the property in 1998. On appeal, they assert that the hearing officer misinterpreted and misapplied applicable law; that there was insufficient evidence presented; and that there were irregularities in the conduct of the hearing.

The landlord appellant requested that the matter be continued so that the parties might be able to settle this matter themselves. The Board agreed to continue the matter until August 17th so that the parties can try to achieve resolution.

D. 211 Cornwall St.

T001-96R

The tenant's appeal was filed ten months late because the tenant asserts that he came in to the Rent Board office and was not advised by the counselor with whom he spoke that he could appeal the decision on the grounds of financial hardship. The landlord's petition for certification of capital improvement costs for twelve units was granted in July of 1998. One tenant now appeals the decision, claiming that imposition of the \$80.56 passthrough presents him with a financial

hardship, and that he did not realize that he could appeal on that basis, since the decision does not so indicate.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Wasserman: 4-0)

MSC: To accept the tenant's appeal and remand the case for a hearing on the claim of financial hardship.
(Marshall/Wasserman: 4-0)

E. 3414 - 25th St. #1

T001-95R

The tenant's appeal was filed two days late because the Dismissal of the tenant's petition was not mailed to counsel for the tenant, who does not speak English.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Wasserman: 3-1; Murphy dissenting)

The tenant's petition alleging decreased housing services was dismissed because the tenant, who does not speak English, appeared for two mediations unaccompanied by a translator after having been informed it would be necessary for her to procure one. On appeal, the tenant asserts that the first mediation session did not proceed because the landlord was unprepared; that the Rent Board was obligated to procure the services of a translator for the tenant; and that the grounds for dismissal contained in Rules and Regulations Section 11.16 are not present in this case.

The Commissioners continued consideration of the tenant's appeal so that the Department could ascertain from staff exactly what the tenant was told concerning translation issues and her hearing.

F. 447-1/2 - 4th Ave.

T001-98R

The landlord's petition for certification of capital improvement costs to three units was granted. The tenants in one unit appeal, claiming that the \$20.49 passthrough presents them with a financial hardship.

MSC: To accept the tenants' appeal and remand the case for a hearing on the claim of financial hardship.
(Marshall/Murphy: 4-0)

G. 730 Stockton St.

T001-72A

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable in the amount of \$3,134.92 because a capital improvement had been included in base rent and had not been discontinued upon having been amortized. The landlord's appeal was accepted in order for

a rent increase that was within the annual increase limitations but technically defective to be corrected, and not declared null and void. The resulting liability to the landlord was reduced to \$2,364.90. The landlord appeals the remand decision, claiming that the hearing officer misapplied the banking provisions of the Rules and Regulations; that the landlord did not have a chance to cross-examine the tenant regarding the unlawful rent increase; and that the hearing officer is biased against him.

MS: To deny the landlord's appeal.

(Marshall/Justman: 2-2; Gruber, Murphy dissenting)

The Commission agreed to continue the consideration to the next meeting when there would be a full complement of voting members.

H. 1582 - 22nd Ave.

T001-73A

The landlords' petition for a rent increase based on comparable rents was denied. The landlord was, however, found liable to the tenant in the amount of \$3,138.00 due to overpayments in rent. The landlord appealed the decision and the case was remanded to the hearing officer to properly apply Rules and Regulations Section 1.12(b) and to consider the landlord's allegation that the unit was furnished in the comparables analysis. In the Decision of Hearing Officer on remand, the hearing officer found that the furniture did not increase the value of the house and therefore did not warrant reversal of denial of the comparables petition, but adjusted the amount of overpayment to \$1,974.00. The landlord appeals the remand decision, asserting that: there is an error as to the calculation of rent overpayments; the hearing officer failed to make a determination as to comparable rents for furnished houses; the landlords have not been provided an opportunity to augment their comparables evidence as to furnished units; there is an error in the decision as to the month that a rent increase was given in 1994; and that the hearing officer is biased in favor of the tenants.

MSC: To deny the landlord's appeal.

(Justman/Marshall: 4-0)

I. 640 Eddy St.

T001-99R

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims to have missed the hearing because he was ill, and submits a statement from a doctor to that effect.

MSC: To accept the appeal and remand the case for a new hearing.

(Marshall/Justman: 3-1; Gruber dissenting)

J. 733 Waller St.

T001-74A

The landlord's appeal was filed five and one-half weeks late because he was out of the country at the time that the decision was mailed.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Gruber: 4-0)

The landlords' petition for certification of capital improvement costs for three of six units was granted, in part. On appeal, the landlords claim that the cost of the back stairs should have been allocated to four, rather than two, units; and that the cost of painting the rear of the building should only be allocated to four, and not all six, units.

MSC: To accept landlord's appeal and remand the case to the hearing officer on the record for a technical correction as to the allocation issue with respect to the stairs; the appeal is denied as to the issue of cost allocation for the exterior painting.
(Marshall/Wasserman: 4-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A copy of the Department's June statistics.
- B. A copy of the 5th District Court of Appeal's decision in the matter of Galland v. City of Clovis concerning a rent-controlled mobile home park.

VI. Director's Report

Director Grubb reported that the Commission's proposed amendments to conform the Rent Ordinance with the requirements of Costa-Hawkins will be heard on August 3rd at Housing and Social Policy. The Ellis amendments are tentatively scheduled to be heard on August 17th before the same Committee of the Board of Supervisors.

Commissioner Murphy indicated that the landlord community was concerned about a conflict between Section 6.14 of the Rules and Regulations and Costa-Hawkins and could be expected to make an issue of it at the Rent Board or at the Board of Supervisors in the near future. Commissioner Wasserman wanted it noted for the record that it was incumbent upon the landlord community or the City Attorney's office to motivate any changes that they may desire. She stated that it was not the duty or responsibility of the neutral commissioners to do this.

VII. Remarks from the Public

Al Browning complemented the Commissioners on their diligence and hard work on the issues before them. He also suggested that better signage at the guard station be provided as the guard on duty was unaware of the Commission meeting location site.

VIII. Calendar Items

July 27, 1999 - NO MEETING

August 3, 1999

11 appeal considerations (1 continued from 7/6/99 and 2 from 7/20/99)

Old Business:

- A. "De Minimus Rule"
- B. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- C. Rules and Regulations Sections 6.14 and 6.15

IX. Adjournment

President Wasserman adjourned the meeting at 7:20 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

August 3, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

fax copy 1st Posted 7/27/998
DOCUMENTS DEPT.

I.	Call to Order	JUL 28 1999
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	07-20-99 10:00 AM
	NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.	
V.	Consideration of Appeals	
	A. 1935 Franklin St. #503	T001-70A (cont. from 7/6/99)

The landlord appeals the decision granting a claim of unlawful rent increase in a case involving assignment of rental units.

B. 3414 - 25th St. #1 T001-95R
(cont. from 7/20/99)

The tenant appeals the dismissal of her petition alleging substantial decreases in housing services.

C. 730 Stockton St. T001-72A
(cont. from 7/20/99)

The landlord appeals the remand decision determining rent overpayments.

D. 52 Darrell Pl. #A T002-03R

The tenant appeals the allocation method for capital improvement costs in the Decision of Hearing Officer.

E. 3149 California St. #2E T001-75A

The landlord appeals the decision granting a rent reduction due to inadequate heat.

F. 2360 Pacific Ave. #203 T002-04R

The tenants in one unit appeal the decision certifying capital improvement costs.

G. 2850 - 23rd St./2490 Bryant T001-81A

The landlords appeal the decision determining rent overpayments, alleging that the subject unit is commercial, and not residential.

H. 835 Turk St. T002-07R

The tenant appeals the denial of his petition alleging decreased housing services.

I. 2517 Cabrillo T002-08R

One tenant appeals the decision certifying capital improvement costs.

J. 461 Elmira St. T001-76A

The landlords appeal the decision granting a claim of decrease in services due to withdrawal of the right to sublet.

VI. Communications

VII. Director's Report

VIII. Old Business

- A. "De Minimus Rule" (Rules and Regulations Section 4.10(b))
- B. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- C. Rules and Regulations Sections 6.14 and 6.15

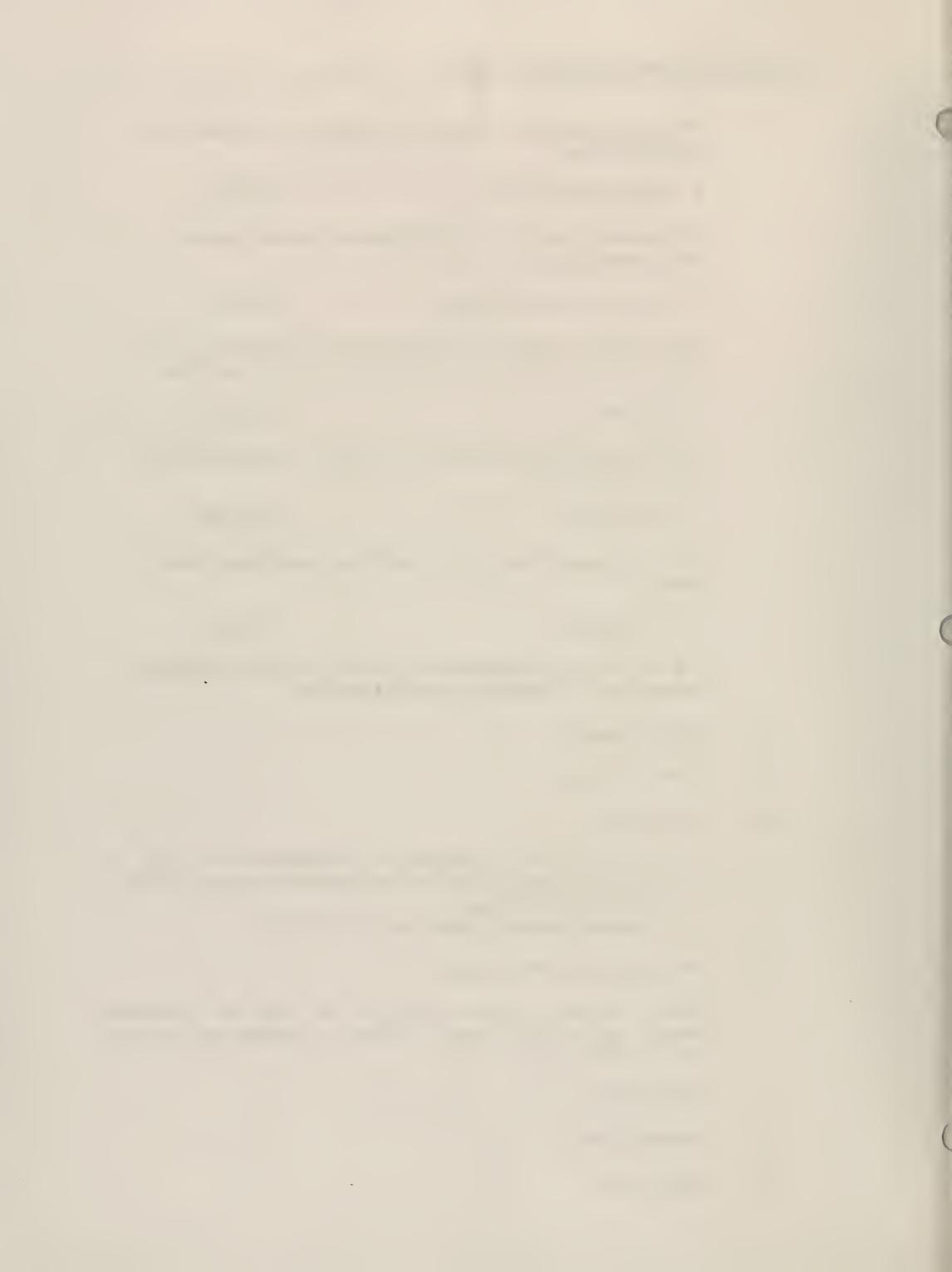
IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment



City and County of San Francisco



CORRECTED

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

SHARON K. WASSERMAN

PRESIDENT

199

POLLY MARSHALL

VICE-PRESIDENT

rected

JOSEPH GRUBB

EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

AUG 16 1999

Tuesday, August 3, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

SAN FRANCISCO
PUBLIC LIBRARY

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Bierly; Gruber; Justman; Lightner; Marshall; Mosser; Murphy; Wasserman.

Commissioners not Present: Becker.
Staff Present: Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of July 20, 1999.
(Marshall/Gruber: 4-0)

IV. Remarks from the Public

Members of the public addressed the Board as follows below:

A. A gentleman stated that it would be helpful to have printed instructional material regarding the appeals process.

B. A woman stated that she had sent faxes to the Rent Board office on two occasions and received no response.

C. A tenant appellant questioned the depiction of the issues in his appeal on the Agenda.

D. A gentleman asked if the Board's scheduled meeting times could be updated on the "Information-to-Go" system.

E. A tenant appellant said that she was unable to obtain an answer to her question because she could not call in to the Rent Board office after the phone lines are closed at 4:00 p.m.

V. Consideration of Appeals



A. 2517 Cabrillo

T002-08R

The landlord's petition for certification of the costs of a new roof to the two units in the building was granted, resulting in a monthly passthrough in the amount of \$23.32. One tenant appeals, claiming that: a cost breakdown and permit for commencement of the work were not furnished by the landlord; the DBI failed to inspect the work until two years after completion; the new roof was necessitated by the landlord's deferred maintenance; and the landlord has failed to provide handrails in the bathroom nor allow installation of a washer/dryer, which are needed because one of the tenants in the unit is disabled.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

B. 1935 Franklin St. #503

T001-70A

(cont. from 7/6/99)

The tenants' petition alleging an unlawful rent increase from \$930 to \$1,650.00 per month was granted. The tenants had switched apartments with the tenants in another unit in the building and created an assignment of the tenancies at the same rent with the consent of the prior resident manager of the building. Therefore, the hearing officer found the tenants to be "original tenants" within the meaning of Rules and Regulations Section 6.14. On appeal, the landlord asserts that: pursuant to the provisions of Civil Code Section 1954.53 (Costa-Hawkins), the landlord has the right to increase the rent because the tenants did not occupy the rental unit prior to January 1, 1996; a landlord's knowledge or consent to an occupancy is not consent to a rent level as the issues are separate and distinct and the tenants cannot assign a statutory right held by the owner; the tenants in this case engaged in a concerted effort to obtain a larger apartment without having to pay market rent for the unit; and the hearing officer failed to make the tenants meet their burden of proving the rent increase to be unlawful but, rather, put the onus on the landlord to prove that the increase was lawful. On July 20th, the Board continued consideration of this case due to the lack of a voting majority.

MSC: To recuse Commissioner Lightner from consideration of this case. (Gruber/Murphy: 4-0)

MSC: To accept the appeal and schedule a Board hearing on the issues of the apparent authority of the agent and waiver pursuant to Costa-Hawkins (Civil Code Section 1954.53). (Murphy/Gruber: 3-1; Justman dissenting)

C. 3414 - 25th St. #1

T001-95R

(cont. from 7/20/99)

The tenant's petition alleging decreased housing services was dismissed because the tenant, who does not speak English, appeared for two mediations unaccompanied by a translator after having been informed it would be necessary for her to procure one. On appeal, the tenant asserts that the first

mediation session did not proceed because the landlord was unprepared; that the Rent Board was obligated to procure the services of a translator for the tenant; and that the grounds for dismissal contained in Rules and Regulations Section 11.16 are not present in this case.

The Commissioners continued consideration of the tenant's appeal so that the Department could ascertain from staff exactly what the tenant was told concerning translation issues and her hearing. After discussion, consideration of this case was continued to the August 17th meeting, when a voting quorum will be present.

D. 730 Stockton St.

T001-72A

(cont. from 7/20/99)

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable in the amount of \$3,134.92 because a capital improvement had been included in base rent and had not been discontinued upon having been amortized. The landlord's appeal was accepted in order for a rent increase that was within the annual increase limitations but technically defective to be corrected, and not declared null and void. The resulting liability to the landlord was reduced to \$2,364.90. The landlord appeals the remand decision, claiming that the hearing officer misapplied the banking provisions of the Rules and Regulations; that the landlord did not have a chance to cross-examine the tenant regarding evidence of the unlawful rent increase; and that the hearing officer is biased against him. At the July 20th meeting, the Commissioners agreed to continue the consideration to the next meeting when more voting members would be in attendance.

MSC: To deny the appeal.

(Marshall/Justman: 3-1; Gruber dissenting)

E. 52 Darrell Place #A

T002-03R

The landlords' petition for certification of capital improvement costs to four units was granted, in part. The tenant in one unit appeals the equal allocation of the costs of painting and roof work, maintaining that allocation should be based on the square footage of the units, because his unit is approximately 1/3 the size of the other units in the building.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

F. 3149 California St. #2E

T001-75A

The tenant's petition alleging intermittent and inadequate heat in the unit was granted, in part, and the landlord was found liable to the tenant in the amount of \$275.00. On appeal, the landlord maintains that the Decision contains misstatements of fact and errors of law; that, if the tenant's allegations were true, other tenants in the building would have complained; that a Notice of Violation

from the DBI had to do with conditions that did not affect the supply of heat to the unit; and that the tenant should not be considered credible, in light of a history of harassment toward management and other tenants in the building.

MSC: To accept the appeal and remand the case to the hearing officer for a hearing in order for the tenant to meet her burden of proving the heat to have been deficient; and, if she fails to do so, to deny the petition.

(Lightner/Gruber: 3-1; Marshall dissenting)

G. 2360 Pacific Ave. #203

T002-04R

The landlords' petition for certification of capital improvement costs for eight of twenty units was granted, in part. Two tenants in one unit appeal the passthrough for the costs of new windows to their unit, claiming that the window work only benefited the units on the front (south) side of the building; that the work was in the nature of repair; and that the work does not meet the definition of a capital improvement.

MSC: To deny the appeal. (Gruber/Lightner: 4-0)

H. 2850 - 23rd St./2490 Bryant

T001-81A

The tenant's petition alleging unlawful rent increases was granted and the landlords were found liable to the tenant in the amount of \$3,200.00. On appeal, the landlords maintain that the subject unit was designed, constructed and used for commercial purposes, has no residential amenities, and is therefore exempt from Rent Board jurisdiction; that 50% of the rent for the space is paid by the tenant's employer because it is used by the tenant as an office; that the subject unit is completely separate from the adjoining residential unit; that there was a separate agreement and separate rent paid for the subject unit; and that the hearing officer exceeded her authority by ordering the refund of rent overpayments, since the tenant specifically stated that he was not seeking such relief.

MSC: To accept the appeal and schedule a hearing before the Board. (Lightner/Gruber: 3-1; Marshall dissenting)

I. 835 Turk St.

T002-07R

The tenant's petition alleging a substantial decrease in housing services was denied because the hearing officer found that the tenant had failed to meet his burden of proof. The tenant appeals, alleging that there are many discrepancies in the decision; that the landlord only repaired the leak in the bathroom ceiling after he contacted the DBI; and that the hearing officer should not have found the landlord and the landlord's witness to be credible, in the face of contradictory evidence submitted by the tenant.

MSC: To deny the appeal. (Gruber/Lightner: 4-0)

J. 461 Elmira St.

T001-76A

The tenants' petition alleging a substantial decrease in housing services because of the landlords' revocation of the right to sublet was granted and the landlords were found liable to the tenants in the amount of \$4,100.00. On appeal, the landlords claim that the hearing officer miscalculated the dates during which the housing service was reduced because the landlord orally reinstated the tenants' right to sublet at the hearing in this case.

MSC: To deny the appeal. (Justman/Marshall: 3-1;
Gruber dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A copy of the Court of Appeal opinion in the case of Golden Gateway v. S.F. Rent Board (Superior Court Case No. 982216; Court of Appeal Case No. A083297).
- B. A letter from a tenant who lives at the Marina Cove Apartments (1550 Bay Street) concerning the large capital improvement passthrough that has been petitioned for by the landlord.
- C. A copy of an article in the July 30th Daily Journal reporting that Judge David Garcia upheld the constitutionality of Proposition G in the case of Cwyner v. City and County of San Francisco (Superior Court Case No. 302014).
- D. Letters from Supervisor Mark Leno to Commissioners Lightner and Becker, congratulating them on their reappointment.

VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Board as follows:

- A. The Hearing Officer and Senior Hearing Officer positions have been reclassified. Their new job titles, Administrative Law Judge and Senior Administrative Law Judge, took effect as of July 1st. The Department is asking that the City Attorney draft an Ordinance for the Board of Supervisors, changing the language in the Rent Ordinance. At the request of the Deputy Director, the Commissioners passed the below motion:

MSC: At the time that the designation "Hearing Officer" is changed to "Administrative Law Judge" in the Rent Ordinance, staff shall

conform the Rules and Regulations accordingly.
(Marshall/Lightner: 4-0)

The Commissioners expressed their unanimous congratulations to the Administrative Law Judges, and Senior Administrative Law Judges, for this well-deserved and long overdue promotion.

B. Legislation sponsored by Supervisor Leno regarding changes of roommates in the presence of an absolute prohibition against subletting was passed out of the Housing and Land Use Committee of the Board of Supervisors today without recommendation. It will go before the full Board of Supervisors for First Reading on Monday, August 9th.

C. There will be a delay in the Commissioners' per diem reimbursement for Board meetings in June; July payments come out of the budget for the new fiscal year and will be timely. The Commissioners requested that the issue of compensation for Board meetings be placed on the Agenda for the next meeting.

VIII. Old Business

A. "De Minimus Rule"

Commissioner Wasserman, with the assistance of Deputy Director Wolf and Senior Administrative Law Judge Tim Lee, proposed amending Rules and Regulations Sections 4.10(b) and 4.12 as follows below (new language underlined):

Section 4.10 Notice

(b) "Any rent increase which does not conform with the provisions of this Section shall render the entire rent increase null and void, unless the amount requested equals no more than the allowable annual and banked rent increase(s), provided, however, that in the event such increases are given in a good faith effort to comply with the Ordinance and Regulations and do not exceed limitations by more than one-half of one percent of the prior base rent, Hearing Officers shall readjust the base rent to reflect the proper percentage increase."

Section 4.12 Banking

(a) A landlord who refrains from imposing an annual rent increase, or any portion thereof, may accumulate said increase and impose that amount on or after the tenant's subsequent rent increase anniversary date; however, the rent may be increased only one time every twelve (12) months. This banked amount may only be given at the time of an annual increase. Only those increases which could have been imposed on, or subsequent to, April 1, 1982, may be accumulated. A full 12 months must have elapsed from the date that an annual rent increase, or a portion thereof, could have been imposed before this banking section becomes applicable. Banked increases shall not be compounded and shall not be rounded up; provided, however, that in the event that a banked rent increase exceeds limitations by no more than one-half of one percent of the prior base rent and such increase was given in a good faith

effort to comply with the Ordinance and Regulations. Hearing Officers shall readjust the base rent to reflect the proper banked amounts."

MSC: To put the proposed amendments to Rules and Regulations Sections 4.10(b) and 4.12 out for Public Hearing.
(Justman/Lightner: 4-0)

B. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

The Board continued their discussion of a proposal by Commissioner Lightner to raise the rate of interest allowed landlords who finance capital improvement work with a variable rate loan, since the imputed interest rate is currently less than the "teaser" rate on such loans. In conjunction with a proposal to raise the "cap" on interest from the current 10% to 12%, Commissioner Wasserman had requested information as to where interest rate indexes have been historically. At the meeting, Commissioner Lightner distributed such information for the years 1982 to 1995. At the request of Commissioner Marshall, due to the fact that the information had not been received prior to the meeting, this issue was continued to the meeting on August 17th.

C. Rules and Regulations Sections 6.14 and 6.15

Commissioner Lightner distributed a draft amendment purporting to conform Rules Section 6.14 to the requirements of the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.53) Discussion of this issue was continued to the August 17th Board meeting.

IV. Remarks from the Public (cont.)

A member of the public inquired as to which of the Commissioners were voting and which were alternate members, and asked as to the qualifications for becoming a Commissioner.

IX. Calendar Items

August 10, 1999 - NO MEETING

August 17, 1999

10 appeal considerations (1 cont. from 7/20/99; 1 cont. from 8/3/99)

Executive Session: Golden Gateway

Old Business:

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
- B. Rules and Regulations Sections 6.14 and 6.15
- C. Commissioner Compensation

X. Adjournment

President Wasserman adjourned the meeting at 9:00 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,

August 17, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Executive Session

DOCUMENTS DEPT.

Litigation: Government Code Section 54956.9(a)

Golden Gateway v. S.F. Rent Board

(Superior Court Case No. 982216;
Court of Appeal Case No. A083297)

AUG 13 1999

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for copy 1st post'd 8/12/99

- VI. Consideration of Appeals

A. 3751 Cesar Chavez (Army) St.

T001-71A

(cont. from 7/20/99)

The landlord appeals the decision granting a claim of unlawful rent increase.

B. 3414 - 25th St. #1

T001-95R

(cont. from 8/3/99)

The tenant appeals the dismissal of her petition alleging substantial decreases in housing services.

C. 1853 Scott St.

T001-77A

The landlord appeals the decision certifying capital improvement costs but determining rent overpayments.

D. 647 Grandview Ave. #4

T001-78A

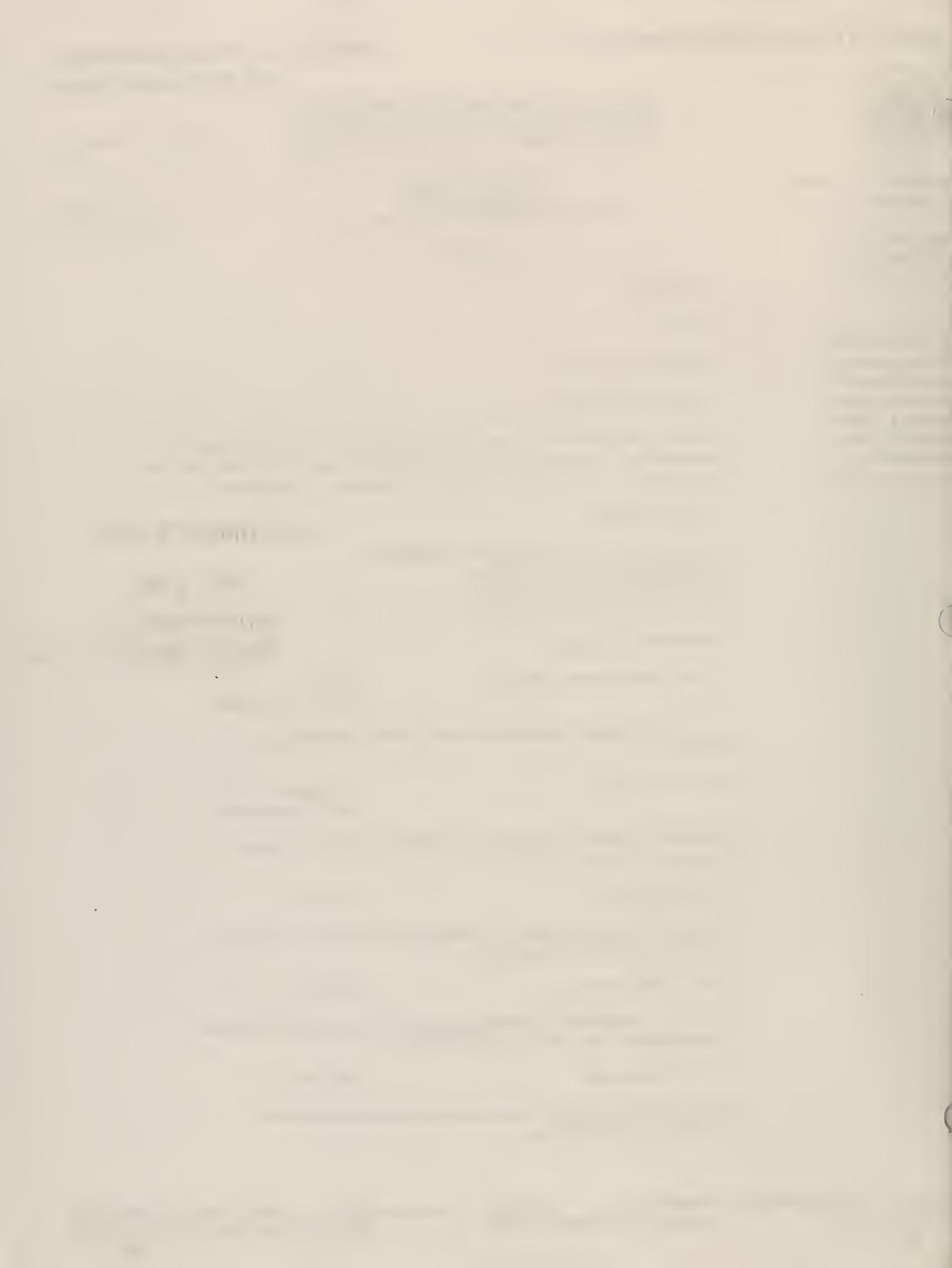
The landlord appeals the decision granting rent reductions due to the loss of storage space and quiet enjoyment of the unit.

E. 1150 Valencia St.

T001-79A

The landlord appeals the decision granting rent reductions due to decreased housing services.





F. 1900 Vallejo St. #405

T002-10R

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

G. 221 Noe St. #3, 8 & 9

T001-80A; T002-11R

The landlord and one tenant appeal the decision certifying capital improvement costs.

H. 629 Post St.

T001-82A

The landlord appeals the decision granting claims of decreased housing services and unlawful rent increases.

I. 1498 Noe St.

T002-09R

The tenants in one unit appeal the decision granting a rent increase based on increased operating expenses.

J. 555 Pierce St. #203, 301 & 304

T002-12 thru -14R

Three tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

VII. Communications

VIII. Director's Report

IX. Old Business

A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

B. Rules and Regulations Section 6.14

C. Commissioners' Compensation

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

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CITY AND COUNTY OF SAN FRANCISCO



SHARON K. WASSERMAN

PRESIDENT

POLLY MARSHALL

VICE-PRESIDENT

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD

WILLIE L. BROWN, JR.

MAYOR

JOSEPH GRUBB

EXECUTIVE DIRECTOR

Tuesday, August 17, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

SEP 01 1999

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Wasserman called the meeting to order at 6:03 p.m.

II. Roll Call

Commissioners Present: Becker; Lightner; Marshall; Mosser;

Murphy; Wasserman.

Commissioners not Present: Bierly; Justman.

Staff Present: Grubb; Gartzman; Lee.

Commissioner Gruber appeared on the record at 6:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 3, 1999 with a correction to the vote on 1935 Franklin Street to reflect that Commissioner Marshall was the dissenting member in that matter.
(Marshall/Lightner: 5-0)

IV. Remarks from the Public

A woman indicated that sensitive personal documents submitted to the Rent Board should be kept confidential at all times.

V. Executive Session

The Commission went into Executive Session to discuss litigation in the matter of Golden Gateway v. S.F. Rent Board, Superior Court Case No. 982216 and Court of Appeal Case No. A083297. After deliberation with Deputy City Attorney Marie Blits, the Commission voted to divulge the contents of their discussion in the following motion:

MSC: To divulge the nature of the Board's deliberations, regarding whether or not the City should take any action with respect to the Court of Appeal's recent decision in this matter. The Commissioners decided not to recommend any action, since the Board was split in its opinion as to whether or not any action should be taken. The Tenant Commissioners felt that there should either be a request for re-hearing and/or action

taken to have the decision de-published. The Landlord Commissioners felt that the decision should be left as is. The Neutral Commissioner did not feel that it was her responsibility to make the decision, but rather deferred to the decision of the City Attorney on this matter.
(Lightner/Becker: 5-0)

VI. Consideration of Appeals

A. 3751 Cesar Chavez (Army) St.

T001-71A

(Cont. from 7/20/99)

This matter was continued to the September 7th meeting as the parties are still attempting to settle.

B. 3414 - 25th St. #1

T001-95R

(Cont. from 8/3/99)

The tenant's petition alleging decreased housing services was dismissed because the tenant, who does not speak English, appeared for two mediations unaccompanied by a translator after having been informed it would be necessary for her to procure one. On appeal, the tenant asserts that the first mediation session did not proceed because the landlord was unprepared; that the Rent Board was obligated to procure the services of a translator for the tenant; and that the grounds for dismissal contained in Rules and Regulations Section 11.16 are not present in this case.

At the July 20, 1999 Board meeting, the Commissioners continued consideration of the tenant's appeal to the August 3, 1999 meeting so that the Department could ascertain from staff exactly what the tenant was told concerning translation issues and her hearing. After discussion at the August 3, 1999 meeting, consideration of this case was continued to the August 17th meeting, when a voting quorum would be present.

Staff was asked to contact St. Peter's Housing Committee, which assisted the tenant prior to the hearing. St. Peter's represented to the department that all their clients are repeatedly advised that they must bring an interpreter to the Rent Board.

MSC: To deny the tenant's appeal.

(Wasserman/Gruber: 3-2; Becker and Marshall dissenting)

C. 1853 Scott St.

T001-77A

The landlord's petition for certification of the cost of a new foundation to one unit was granted, resulting in a passthrough in the amount of \$98.02 per month. However, the landlord was found liable in the amount of \$2,970.00 due to an unlawful rent increase in 1998. On appeal, the landlord maintains that the prohibition on compounding of banked increases is unconstitutional and does

not promote a legitimate government purpose because it punishes a landlord who refrains from raising the rent regularly; that the hearing officer represented that the increase was correct, and is therefore estopped from declaring it to be null and void; that the overcharge was de minimus and, therefore, the penalty results in a forfeiture; and that the tenant agrees that the decision is unfair.

MSC: To deny the appeal, with a technical correction to clarify the wording in paragraph 14.
(Becker/Marshall: 5-0)

D. 647 Grandview Ave. #4

T001-78A

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$1,200.50 due to the loss of storage space in the building and loss of quiet enjoyment of the rental unit due to noise and disturbances caused by the landlord. On appeal, the landlord claims that: the tenants' petition is retaliatory and stems from the landlord's refusal to rent a garage space to the tenants; storage space in the building was never offered to the tenants; the hearing officer exhibited bias toward the tenants and deprived the landlord of his due process rights at the hearing; the landlord was not present in his unit when the tenants claimed he was making excessive noise; and the evidence offered by the tenants is self-serving and without corroboration.

MSC: To deny the landlord's appeal.
(Becker/Marshall: 3-2; Gruber and Lightner dissenting.)

E. 1150 Valencia St.

T001-79A

The tenants' petition alleging decreases in housing services was granted, and the landlord was found liable to the tenants in the amount of \$1,282.50 due to noise and intrusions from a construction project in the commercial unit below the tenant's unit. The landlord appeals, claiming that: the hearing officer was biased in favor of the tenants and gave no weight to testimony and evidence entered by the landlords; the fact that no other tenants in the building filed petitions proves that the tenants' claims are exaggerated; the tenant unlawfully entered the construction zone and harassed the workers; and there is no economic benefit to the landlord as a result of the construction.

MSC: To accept the appeal and remand to the hearing officer on the record for clarification only as to why the value for the decreased service was \$250 instead of \$190. This is to be done as either a Memorandum to the Commission or as a technical correction on the record.
(Becker/Marshall: 5-0)

F. 1900 Vallejo St. #405

T002-10R

The landlords' petition for certification of capital improvement costs for 4 out of 14 units was granted, resulting in a monthly passthrough in the amount of \$38.04. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship, with consideration being given to the tenant's use of her savings for living expenses.
(Marshall/Becker: 5-0)

G. 221 Noe St. #3, 8 & 9

T001-80A; T002-11R

The landlords' petition for certification of capital improvement costs to five units was granted, in part. One tenant appeals the passthrough of the costs of a new deck, alleging that the work was necessitated by the landlords' deferred maintenance. The landlord appeals the hearing officer's discontinuation of a prior passthrough for interior painting on the grounds that it no longer benefits the tenants, because the landlord had not imposed the total amount that was approved. Instead, the landlord banked a portion of the passthrough. The landlord argues that, in circumstances such as this, discontinuation of the prior passthrough will force landlords to impose the total amount approved right away, for fear of losing the remainder.

MSC: To accept the landlord's appeal and remand to the hearing officer on the record to re-consider the issue of the discontinued banked passthrough for interior painting.
(Marshall/Gruber: 5-0)

MSC: To accept the tenant's appeal and remand to the hearing officer for clarification as to whether or not the dry rot was a result of deferred maintenance. A hearing will be held only if necessary.
(Marshall/Gruber: 5-0)

H. 629 Post St.

T001-82A

The tenant's petition alleging an unlawful increase in rent and decreased housing services was granted, in part. The landlord was found liable to the tenant in the amount of \$120.00 due to the loss of maid services in his residential hotel. Additionally, the landlord was found liable for rent overpayments in the amount of \$1,466.99 because the tenant's move to a new unit was found not to warrant a rent increase, because the tenant was forced to move because the landlord took no action against another tenant in the building who was endangering the tenant's health. The landlord, who did not appear at the hearing, appeals, asserting that: he did not receive the Notice of Hearing until after the hearing was completed because he lives out of town, and the Notice was sent to his part-time residence in San Francisco, nor did he receive

a phone call from Rent Board staff on the day of the hearing; the Decision of Hearing Officer is void because it was not issued in a timely manner; the tenant chose this particular unit, knowing that it had amenities justifying a higher rent; and the decision imposes a severe penalty without due process of law.

MSC: To accept the landlord's appeal and remand for a new hearing.
(Lightner/Gruber: 4-1; Marshall dissenting)

I. 1498 Noe St.

T002-09R

The tenants' appeal was filed three days late because the tenants had vacated the unit and experienced delay in getting their mail forwarded.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Gruber: 5-0)

The landlord's petition for a 7% rent increase for one unit based on increased operating expenses was granted. The tenants appeal the decision, claiming that one of the tenants should not be subject to the increase because she did not reside in the unit during the landlord's Year One comparison period; that the landlord's petition should have been administratively dismissed as lacking in documentation; that the additional time granted the landlord to perfect his petition caused the tenants to be liable for a large retroactive amount; and that the landlord has failed to refund the tenants' security deposits after their having vacated the unit.

MSC: To deny the tenants' appeal.
(Becker/Gruber: 5-0)

J. 555 Pierce St. #203, 301 & 304

T002-12R through -14R

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted. The tenants in three units appeal the decision on the grounds of financial hardship.

MSC: To have staff inquire of the tenant in unit #203 (T002-12R) as to his reference to a roommate in the hardship appeal form; whether or not there is a roommate now; and what the circumstances were regarding the tenant's right to have a roommate. If there is a roommate, the roommate must submit a hardship application prior to the September 7th meeting. If it is determined that there is no roommate or no permission to have a roommate, then the appeal is accepted for hearing on the hardship issue.
(Becker/Marshall: 4-1; Lightner dissenting)

MSC: To accept the appeal of the tenant in unit #301 and remand for a hearing on the claim of financial hardship.
(Lightner/Becker: 5-0)

MSC: To deny the appeal as to the tenant in unit #304.
(Lightner/Gruber: 5-0)

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A letter from Ms. Sandra Musser concerning her case.
- B. A copy of a Civil Service report on Commission compensation.

VIII. Director's Report

Executive Director Grubb reported that the Agenda information regarding services provided by the Department is now translated into Spanish and Chinese. He also noted that the Leno legislation passed second reading on August 16th. It will be signed in 10 days by the Mayor and becomes law 30 days thereafter.

IX. Old Business

- A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

The Commission's discussion of the matter focused on the draft language provided by Commissioners Lightner and Marshall. A combination of sections from each of the two versions was considered, but no final decision on the matter was reached. The matter was continued to a special legislative session, which will be held on Thursday, September 9, 1999 at 6:00 p.m.

- B. Rules and Regulations Section 6.14

The Board reviewed the draft proposal submitted by Commissioner Lightner. The Commissioners discussed Section 6.14 with Deputy City Attorney Blits and asked what might be needed to conform it with the Costa Hawkins Rental Housing Act. Ms. Blits was asked to review the proposed legislation; to attend the special legislative session on September 9, 1999; and to provide a written response to the Commission prior to the September 9th meeting.

- C. Commissioners' Compensation

Executive Director Grubb pointed out that there has been no increase in the Commissioners' compensation since the early 1980s. However, the amount of work has increased a great deal since then. The complexity and length of decisions has grown over the years and the amount of legislation requiring consideration has increased as well. The compensation received should reflect this time investment as well as the actual time spent in the Commission meeting itself. Mr. Grubb proposed the following compensation schedule: \$25 for the

first hour; \$50 for the first two hours; and \$75 for any time in excess of the first two hours. The Commissioners voted unanimously to adopt the Executive Director's proposal, which will be put out for Public Hearing on September 21st.

X. Calendar Items

August 24 & 31, 1999 - NO MEETINGS

September 7, 1999

10 appeal considerations (2 cont. from 8/17/99)

6:30 Appeal hearing: 2850 23rd St./2490 Bryant St. (T001-81A) (acpt. 8/3/99)

September 9, 1999

Legislative Session: Sections 6.14 and 7.14 of the Rules and Regulations

XI. Adjournment

President Wasserman adjourned the meeting at 10:10 p.m.

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

Tuesday, 6:00 p.m.,
September 7, 1999
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

/99

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

AGENDA

DOCUMENTS DEPT.

I.	Call to Order	SEP 01 1999
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	Fax copy 1st posted 8/31/99
V.	Consideration of Appeals	
	A. 555 Pierce St. #203	T002-12R (Cont. from 8/17/99)
		The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.
	B. 3751 Cesar Chavez (Army)	T001-71A (Cont. from 8/17/99)
		The landlord appeals the decision determining rent overpayments.
	C. 58 Belcher St.	T001-84A
		The landlord appeals the decision granting a claim of unlawful rent increase.
	D. 335 Shotwell St., #A	T001-83A
		The landlord appeals the decision granting an unlawful rent increase claim.
	E. 2057 15 th St., #A	T002-15R
		The tenant appeals the decision granting rent increases on the grounds that he failed to receive the notice of rent increase.
	F. 48 Foote St.	T001-85A
		The landlord appeals the decision granting rent reductions due to decreased housing services.
	G. 1550 Bay St. #C-332	T002-16R

The tenant, who was a caretaker of the original tenant in the unit, appeals the decision denying her claim of unlawful rent increase.

H. 514 Hayes St. #6

T001-86A

The landlord appeals the dismissal of his petition for a rent increase based on comparables due to his failure to appear at the continued hearing.

I. 1126 Florida St.

T002-17R

The tenant appeals the dismissal of a petition alleging decreased housing services and unlawful rent increase due to her failure to appear.

J. 580 McAllister St.

T002-16 & -18R;
U001-14A

The landlord and two tenants appeal the decision certifying capital improvement costs.

VI. Appeal Hearing

6:30 2850 - 23rd St./2490 Bryant St.

T001-81A
(acpt. 8/3/99)

The landlords appealed the decision determining rent overpayments, alleging that the subject unit is commercial, and not residential.

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

Proposed Amendment to Rules Section 6.15 in Conformity With Legislation Regarding Replacement Roommates Sponsored by Supervisor Leno

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

September 7, 1999
Tuesday, at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

SEP 17 1999

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Marshall;
Mosser; Murphy; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:08 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 17, 1999.
(Becker/Marshall: 5-0)

IV. Remarks from the Public

Landlord Peter Lewis expressed his belief that the Minutes failed to reflect the fact that many landlords, especially Chinese landlords, appeared in opposition to the Leno legislation. He was informed that all comments from members of the public appearing at a meeting of the Rent Board are summarized in the Minutes. Tom Ramm from the Small Property Owners' Association took issue with certain comments in a letter Executive Director Grubb wrote that was published in the Bay Area Reporter and complained regarding the untimely processing of his O&M petition.

V. Consideration of Appeals

A. 58 Belcher St.

T001-84A

The tenants' petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenants in the amount of \$1,363.45. On appeal, the landlord asserts that there is a calculation error in the decision and that it is unclear whether the amount is to be collected by the tenants' deducting from their monthly rent payment, or in a lump sum.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

B. 2057-A Fifteenth St.

T002-15R

The tenants' appeal was filed 2-1/2 months late because the tenants, who claim not to have received the notice of rent increase referenced in the Decision of Hearing Officer, had no way of knowing that the Decision was in error until receipt of a subsequent notice of rent increase.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted. The tenants in one unit appeal the decision, claiming that since they failed to receive notice, the Decision of Hearing Officer is in error as to the effective date of the rent increase.

MSC: To accept the appeal and remand the case to the hearing officer on the issue of the alleged failure to receive the notice of rent increase; a hearing will be held only if necessary.
(Marshall/Becker: 5-0)

C. 1550 Bay St. C-332

T002-16R

The tenant's petition alleging an unlawful increase in rent was denied because the hearing officer found that the tenant, who came into possession of the unit as the caretaker of the prior tenant, was not an "original tenant" as defined by Rules and Regulations Section 6.14. The tenant appeals, asserting that: building management knew that she was residing on the premises and paying rent as early as 1996; the fact that she was also employed by her roommate does not negate the fact that she had established tenancy status; and that the landlord's 6.14 notice was not timely served, as it was issued more than 2-1/2 years after the landlord had notice that the appellant resided on the premises.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

D. 580 McAllister St. #409, 410 & 100

T002-16 & -18R;
U001-19R; &
U001-14A

The tenant in unit #100 filed her appeal 3 days late because she was allegedly advised by a Rent Board staff member that only calendar days count when calculating the appeal deadline.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlords' petition for certification of capital improvement costs to 44 out of 75 units was granted, in part. The tenant in unit #409 appeals on the grounds of financial hardship and asserts that the effective date for the passthrough in the decision is incorrect because she failed to receive the notice of rent increase. The tenants in unit #410 and #100 also appeal the decision on the grounds of financial hardship. The landlord appeals on the issue of the application of the "Six Month Rule" {Rules Section 7.12(b)} to the seismic work, contending that the engineering firm having been authorized to prepare seismic plans did not constitute the "start of work."

MSC: As to the tenant in unit #409, to deny the hardship claim, but to accept the appeal and remand the case on the issue of the tenant's alleged non-receipt of the notice of rent increase; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #410 and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #100 and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

MSC: Based on the facts in this case, to accept the landlord's appeal and remand the case to the hearing officer on the record to find that the work commenced with the delivery of steel to the basement, and to make necessary adjustments in the application of the 6-Month Rule. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

E. 48 Foote St.

T001-85A

The tenants' petition alleging substantial decreases in housing services was granted and the landlords were found liable in the amount of \$8,200.00 due to serious habitability problems on the premises. The landlords failed to appear at the hearing after their request for postponement was denied. On appeal, the landlords asked that the case be remanded, alleging that there were extenuating circumstances that prevented their appearance at the hearing; that the problems were caused by the tenants; and that the tenants failed to provide access so that repairs could be effectuated.

The landlords' appeal was filed 3-1/2 months late because, allegedly, the landlord who read the decision became too distraught to finish reading the decision and therefore was unaware of the deadline for filing an appeal.

MSC: To find good cause for the late filing of the appeal. (Gruber/Lightner: 2-3; Becker, Marshall, Justman dissenting)

No good cause for late filing having been found, the Decision is final.

F. 555 Pierce St. #203

T002-12R
(cont. from 8/17/99)

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted. The tenant appealed on the grounds of financial hardship. At the meeting on August 17th, the Commissioners requested that staff ascertain whether or not the tenant had a roommate and, if not, whether the landlord had not allowed the tenant to get a replacement roommate.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

G. 514 Hayes St. #6

T001-86A

The landlord's petition for a rent increase based on comparable rents was dismissed due to his failure to appear at the properly noticed continued hearing. On appeal, the landlord's counsel alleges that he failed to receive notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To recuse Commissioner Becker from consideration of this matter. (Becker/Justman: 5-0)

MSC: To accept the appeal and remand the case for a continued hearing. (Gruber/Lightner: 3-1; Marshall dissenting)

H. 1126 Florida St.

T002-17R

The tenant's petition alleging substantial decreases in housing services and an unlawful increase in rent was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims that she was unable to appear because of having undergone surgery three days prior to the hearing and states that her husband arrived ten minutes after the case had been dismissed.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 5-0)

I. 3751 Cesar Chavez (Army) St.

T001-71A
(cont. from 8/17/99)

The Deputy Director informed the Board that this case was again continued to the October 5th meeting because the parties are engaged in settlement negotiations, with the provision that no further continuances will be granted.

J. 335 Shotwell #A

T001-83A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$9,814.92. On appeal, the landlord claims that the building was owner-occupied and therefore exempt for a portion of the period in question, and that the decision is in error regarding the amount of rent paid by the tenant.

MSC: To accept the appeal and remand the case for a hearing on the issues of jurisdiction and the amount of rent paid by the tenant.
(Lightner/Gruber: 5-0)

VI. Appeal Hearing

2850 - 23rd St./2490 Bryant St.

T001-81A
(acpt. 8/3/99)

At the request of the attorneys for both sides, the hearing on this case was taken off calendar until after November 15th in order for the parties to enter into settlement negotiations.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the office monthly workload statistics for July, 1999.

VIII. New Business

Proposed Amendment to Rules and Regulations Section 6.15 in Conformity With Legislation Regarding Replacement Roommates
Sponsored by Supervisor Leno

Deputy Director Wolf gave the Commissioners a Memorandum with proposed language authored by Senior Hearing Officer Tim Lee that would conform the procedures for obtaining consent to a replacement roommate in the event of an absolute prohibition against subletting with the current procedures outlined in Rules Section 6.15. This issue will be discussed at the meeting on Sept. 21st.

IX. Calendar Items

September 14, 1999 - NO MEETING

September 21, 1999

7:00 9 appeal considerations
Public Hearing: "De Minimus Rule" & Commissioner Compensation
Old Business: Proposed Amendment to Rules Section 6.15 in Conformity with the Leno Legislation

X. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.

CITY AND COUNTY OF SAN FRANCISCO

RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD



NOTICE OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Thursday, 6:00 p.m.,
September 9, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #320

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POLLY MARSHALL
VICE-PRESIDENT

AGENDA

SEP 03 1999

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- V. Communications
- VI. Director's Report
- VII. Old Business
 - A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage
 - B. Rules and Regulations Section 6.14
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- VIII. New Business
- IX. Calendar Items
- X. Adjournment



September 8, 1999

9/99 Special
Cancelled

NOTICE OF CANCELLATION

The Rent Board Commission has cancelled its special legislation session scheduled for Thursday September 9, 1999. This meeting has been tentatively rescheduled for Monday September 27, 1999. A notice will be issued once the Commission confirms this date.

09-08-99A11:10 RCV'D
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City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, September 21, 1999, at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

OCT 05 1999

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LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Marshall; Murphy;
Wasserman.
Commissioners not Present: Lightner; Mosser.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:40 p.m.
Commissioner Becker appeared by telephone hookup.

III. Approval of the Minutes

MSC: To approve the Minutes of September 9, 1999.
(Marshall/Gruber: 5-0)

IV. Remarks from the Public

Tenant Vesta Kirby, who filed a tenant hardship appeal in the case concerning 1616 Taylor Street #7 (U001-21R), wanted to clarify that the "art" category on her Hardship Application meant art supplies. Russell Ledwell asked that, when an appeal is denied, the Notice of Action on Appeal state the reason for the denial.

V. Consideration of Appeals

A. 1150 Valencia St.

T001-79A

(cont. from 8/17/99)

The tenants' petition alleging decreases in housing services was granted, and the landlord was found liable to the tenants in the amount of \$1,282.50 due to noise and intrusions from a construction project in the commercial unit below the tenant's unit. The landlord appeals, claiming that: the hearing officer was biased in favor of the tenants and gave no weight to testimony and evidence

entered by the landlords; the fact that no other tenants in the building filed petitions proves that the tenants' claims are exaggerated; the tenant unlawfully entered the construction zone and harassed the workers; and there is no economic benefit to the landlord as a result of the construction.

At the meeting on August 17th, the Commissioners voted to accept the appeal and remand to the hearing officer on the record for clarification only as to why the value for the decreased service was \$250 instead of \$190. This was to be done as either a Memorandum to the Commission or as a technical correction on the record. Having received an explanatory Memo from the hearing officer, the Board passed the following motion:

MSC: To deny the appeal. (Becker/Marshall: 5-0)

B. 6678 Third St. #D & #C

T002-19R & U001-20R

The landlord's petition for certification of capital improvement costs to 3 out of 4 Newly Covered Units was granted, in part. Two tenants appeal the decision, asserting that: the workers were paid in cash, so there is no written documentation of the labor costs; the landlord has failed to provide signed contracts or canceled checks substantiating the costs claimed; and the estimator's valuation that the costs were reasonable does not prove that those were the amounts paid.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

C. 1006 Dolores St.

U001-13A

The tenants' petition alleging an improper utility passthrough was denied. However, claims of unlawful rent increase in the amount of \$1,300.00 and decreases in housing services in the amount of \$190 were granted. The landlords appeal, claiming that because the notice of hearing was not forwarded in a timely manner, a landlord with sufficient knowledge of the facts was not present at the hearing; letters submitted by the tenants as evidence constituted inadmissible hearsay; the tenant failed to submit checks to substantiate her claim, only providing bank statements; the tenants were not inconvenienced by the painting of their room; there has always been only one refrigerator; and cable TV was never part of the rental agreement.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Murphy dissenting)

D. 1269 - 3rd Ave.

T001-88A

The tenants' petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenants in the amount of \$2,550.00 On appeal, the landlord asserts that the hearing officer should have refunded the rent

overpayments proportional to the amount of rent paid by each tenant and the length of time they had resided on the property.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Murphy dissenting)

E. 1629 McAllister St. #203

U001-14R

The landlords' petition seeking certification of capital improvement costs to 9 of 13 units was granted, in part. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Murphy: 5-0)

F. 25 Murray St.

U001-15R; U001-17A

The landlord's appeal was filed 4 days late because, apparently, the landlord is not a native English speaker and needed assistance in filing the appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The tenants' petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenants in the amount of \$1,600.00. On appeal, the landlord maintains that single family dwellings are not under rent control; that the tenants are in breach of the lease terms regarding the number of occupants allowed in the unit; and there had not been a rent increase since 1991. The tenants also appeal, asserting that the decision is in error regarding the amount of the refund because they had paid the noticed rent increase pending issuance of the decision.

MSC: To deny the landlord's appeal. (Becker/Marshall: 5-0)

MSC: To accept the tenants' appeal on the issue of the amount owing from the landlord to the tenants; a hearing will be held only if necessary. (Marshall/Becker: 5-0)

G. 41 Lupine Ave.

U001-15A

The landlords' appeal was filed 2 days late because the landlords were on vacation at the time the decision was mailed and the landlords' attorney made a mistake when calendaring the filing deadline for the appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlord's petition for a rent increase in the amount of \$500.00 for this Newly Covered Unit was denied; however, an 11.2% rent increase based on

the past rent history of the unit was granted. On appeal, the landlord asserts that: the hearing officer did not sufficiently take into account the neighborhood in which the subject unit is situated, nor the physical layout of the subject unit; the hearing officer failed to exercise her discretion to extrapolate comparable values on units, making adjustments for size and amenities; and the hearing officer should have permitted the landlord petitioner to augment the record.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

H. 1335 - 38th Ave. #4

The tenant's appeal was filed 4 days late without explanation.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Murphy: 5-0)

The tenant's petition alleging a decrease in housing services due to the failure of the landlord to provide allegedly promised parking was denied because the hearing officer found that the tenant's lease did not include a garage nor was additional consideration paid by the tenant for garage space after the commencement of the tenancy. The tenant appeals, claiming that tenants have always been entitled to garage space based on their seniority in the building, that he has lived in the building the longest, and that the landlord should enforce the "long-standing practice concerning the garage."

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

I. 563 Columbus Ave.

U001-16A

The tenant's petition alleging a substantial decrease in housing services due to the lack of heat in his unit was granted and the landlord, who failed to appear at the hearing, was found liable to the tenant in the amount of \$12,600.00. On appeal, the landlord claims that he failed to appear at the hearing because he and the tenant had entered into a settlement of the claim raised in the petition.

MSC: To accept the appeal and remand the case for a new hearing.
(Murphy/Gruber: 4-1; Becker dissenting)

J. 1616 Taylor St. #7

U001-21R

~~The landlord's petition for rent increases based on increased operating expenses to 7 units was granted, resulting in 7% increases in the tenants' base rents.~~ One tenant appeals the decision on the grounds of financial hardship.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

VI. Public Hearing

Proposed Amendments to Rules and Regulations Sections 4.10 (Notice),
4.12 (Banking) and 2.15 (Per Diem Compensation)

A Public Hearing on proposed amendments to the Rules and Regulations was convened at 7:15 p.m. and concluded shortly thereafter since no members of the public appeared to testify. The amendments to Sections 4.10 and 4.12 allow hearing officers to apply the "de minimus rule" to excessive rent increases of .5% or less not only due to "rounding" where the landlord has acted in good faith. The change to Section 2.15 increases the amount that Commissioners are reimbursed for attending meetings of the Board. The new language is as follows:

Section 4.10 Notice

(b) Any rent increase which does not conform with the provisions of this Section shall render the entire rent increase null and void, unless the amount requested equals no more than the allowable annual and banked rent increase(s), provided, however, that in the event such increases are given in a good faith effort to comply with the Ordinance and Regulations and do not exceed limitations by more than one-half of one percent of the prior base rent, Hearing Officers shall readjust the base rent to reflect the proper percentage increase.

Section 4.12 Banking

(a) A landlord who refrains from imposing an annual rent increase, or any portion thereof, may accumulate said increase and impose that amount on or after the tenant's subsequent rent increase anniversary date; however, the rent may be increased only one time every twelve (12) months. This banked amount may only be given at the time of an annual increase. Only those increases which could have been imposed on, or subsequent to, April 1, 1982, may be accumulated. A full 12 months must have elapsed from the date that an annual rent increase, or a portion thereof, could have been imposed before this banking section becomes applicable. Banked increases shall not be compounded and shall not be rounded up; provided, however, that in the event that a banked increase exceeds limitations by no more than one-half of one percent of the prior base rent and such increase was given in a good faith effort to comply with the Ordinance and Regulations, Hearing Officers shall readjust the base rent to reflect the proper banked amounts.

~~MSC: To approve the proposed changes to Rules and Regulations
Sections 4.10 and 4.12. (Murphy/Gruber: 5-0)~~

Section 2.15 Per Diem Compensation

Each member shall receive \$75.00 for each Board meeting attended if the meeting lasts for three hours or more in a single twenty-four hour period, \$50.00 if the meeting lasts for more than one to three hours in a single

twenty-four hour period, and \$25.00 if the meeting lasts one hour or less in a single twenty-four hour period. If a member or the alternate is not in attendance for an entire meeting, compensation shall be determined by reference to the actual aggregate time in attendance.

MSC: To approve the proposed amendment to Rules and Regulations Section 2.15. (Gruber/Murphy: 5-0)

VII. Director's Report

Executive Director Grubb informed the Commissioners that Senate Bills 1098 and 948 were passed by the State legislature and are awaiting the Governor's signature. Certain provisions of these bills will require amendments to the Ordinance changes recommended by the Rent Board to the Board of Supervisors concerning the Ellis Act and Costa-Hawkins. The Office of the City Attorney has decided to seek depublication of the recent appellate decision concerning Golden Gateway, but not to appeal the decision.

VIII. Old Business

Proposed Amendments to Rules Section 6.15 in Conformity With Legislation Regarding Replacement Roommates Sponsored by Supervisor Leno

Discussion of this issue was continued to the Special Legislative Meeting of the Board to be held on Monday, September 27th.

IV. Remarks from the Public (cont.)

Tenant Vesta Kirby, whose hardship appeal was denied earlier in the meeting, explained more about the personal circumstances that led to her filing of the appeal. Jim Hurt, who is applying for a Hearing Officer position, asked whether Monday's legislative session was open to the public. Russell Ledwell inquired as to the difference between Hearing Officers and Administrative Law Judges, and was informed that they are the same, but that the Ordinance, Regs., forms and the agency's informational materials have not yet been conformed to reflect the change in job title.

IX. Calendar Items

September 27, 1999 - SPECIAL LEGISLATIVE SESSION
Interest Rate When Capital Improvement Work is Financed With a Variable
Rate Mortgage

Rules and Regulations Section 6.14

Rules and Regulations Section 6.15 (The Leno Legislation)

Costa-Hawkins

Ellis Act Amendments

October 5, 1999

9 appeal considerations post. from 9/7/99)
Old Business: Rules Section 6.15 (The Leno Legislation)

X. Adjournment

President Wasserman adjourned the meeting at 7:35 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

21/99
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,
September 21, 1999
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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NOTE: Pursuant to Section 2.10(e) of the Rules and
Regulations, members of the public shall be limited to
comments of no more than 3 minutes' duration.

A. 1150 Valencia St.

T001-79A
(cont. from 8/17/99)

The landlord appeals the decision granting rent reductions due to decreased
housing services.

B. 6678 Third St. #D & #C

T002-19R & U001-20R

Two tenants appeal the decision certifying capital improvement costs.

C. 1006 Dolores St.

U001-13A

The landlord appeals the decision granting a claim of unlawful rent increase.

D. 1269 - 3rd Ave.

T001-88A

The landlord appeals the decision partially granting claims of unlawful rent increase
and decreased housing services.

E. 1629 McAllister St. #203

U001-14R

One tenant appeals the decision certifying capital improvement costs on the
grounds of financial hardship.

F. 25 Murray St.

U001-15R

The landlord appeals the decision granting a claim of unlawful rent increase.

G. 41 Lupine Ave.

U001-15A

The landlord appeals the decision partially denying a petition for rent increase
based on comparable rents.

H. 1335 - 38th Ave. #4

U001-22R

The tenant appeals the decision denying a claim of decreased housing services.

I. 563 Columbus Ave.

U001-16A

The landlord appeals the decision granting a claim of decreased housing services.

J. 1616 Taylor St. #7

U001-21R

One tenant appeals the decision granting rent increases based on increased operating expenses.

VI. Public Hearing

7:00 Proposed Amendments to Rules and Regulations Sections 4.10 (Notice), 4.12 (Banking) and 2.15 (Per Diem Compensation)

VII. Communications

VIII. Director's Report

IX. Old Business

Proposed Amendment to Rules Section 6.15 in Conformity With Legislation Regarding Replacement Roommates Sponsored by Supervisor Leno

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

City and County of San Francisco

**Residential Rent Stabilization and
Arbitration Board**



August 30, 1999

NOTICE OF PUBLIC HEARING

DATE: September 21, 1999

TIME: **7:00 P.M.**

PLACE: **25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70 Lower Level
SAN FRANCISCO, CALIFORNIA**

**PROPOSED AMENDMENTS TO RULES AND REGULATIONS
SECTIONS 4.10 NOTICE, 4.12 BANKING AND 2.15 PER DIEM
COMPENSATION**

The Rent Stabilization and Arbitration Board Commissioners are proposing amendments to the language in Sections 4.10(b), 4.12(a) and 2.15 of the Rules and Regulations.

Written comments may be submitted prior to the hearing. Persons wishing to respond should do so by noon Wednesday September 15, 1999, to ensure that the Commissioners have time to consider submissions. Oral testimony will also be taken on the 21st.

Sections 4.10 and 4.12

The Commissioners voted unanimously to put forth the following language on August 3, 1999, which would permit Hearing Officers to apply the "de minimus rule" to excessive rent increases of .5% or less not due to "rounding" where the landlord has acted in "good faith".

New language is underlined, deletions have a ~~strikethrough~~. The proposed language would amend Sections 4.10(b) and 4.12(a) of the Rules and Regulations to read as follows:

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3 **Section 4.10 Notice**

4 (b) "Any rent increase which does not conform with the provisions
5 of this Section shall render the entire rent increase null and void, unless the
6 amount requested equals no more than the allowable annual and banked rent
7 increase(s), provided, however, that in the event such increases ~~have been~~
8 rounded up in an amount not exceeding one-half of one percent of the prior
9 base rent and there is no systemic pattern of such rounding, Hearing
10 Officers shall readjust the base rent to reflect the proper amounts provided.
11 are given in a good faith effort to comply with the Ordinance and
12 Regulations and do not exceed limitations by more than one-half of one
13 percent of the prior base rent, Hearing Officers shall readjust the base rent to
14 reflect the proper percentage increase."

15 .
16 **Section 4.12 Banking**

17 (a) A landlord who refrains from imposing an annual rent increase,
18 or any portion thereof, may accumulate said increase and impose that
19 amount on or after the tenant's subsequent rent increase anniversary date;
20 however, the rent may be increased only one time every twelve (12)
21 months. This banked amount may only be given at the time of an annual
22 increase. Only those increases which could have been imposed on, or
23 subsequent to, April 1, 1982, may be accumulated. A full 12 months must
24 have elapsed from the date that an annual rent increase, or a portion thereof,
25 could have been imposed before this banking section becomes applicable.
26 Banked increases shall not be compounded and shall not be rounded up;
27 provided, however, that in the event of ~~either compounding or rounding~~

1 Page 3 of 3
2 Public Hearing Notice

3 without a systematic pattern and without exceeding one half of one percent
4 of the base rent, Hearing Officers shall readjust the base rent to reflect the
5 proper banked amounts. that a banked rent increase exceeds limitations by
6 no more than one-half of one percent of the prior base rent and such
7 increase was given in a good faith effort to comply with the Ordinance and
8 Regulations, Hearing Officers shall readjust the base rent to reflect the
9 proper banked amounts."

10 The Executive Director proposed an adjustment in the Commissioners' per diem
11 compensation, which has not been changed since the early 1980's. The new
12 schedule reflects the increased amount of time needed prior to the actual
13 Commission meeting to review appeal considerations and legislation, which
14 have become more lengthy and complicated in the ensuing years. The proposal
15 noted below was voted out for Public Hearing on August 17, 1999.

16 **Section 2.15 Per Diem Compensation**

17 Each member shall receive \$75.00 for each Board meeting attended if the
18 meeting lasts for ~~six~~ three hours or more in a single twenty-four hour period,
19 \$50.00 if the meeting lasts ~~from two~~ for more than one to three hours in a single
20 twenty-four hour period, and \$25.00 if the meeting lasts ~~two~~ one hour(s) or
21 less in a single twenty-four hour period. If a member or the alternate is not in
22 attendance for an entire meeting, compensation shall be determined by reference
23 to the actual aggregate time in attendance ~~the member or alternate was not~~
24 ~~excused and was acting as a voting member.~~

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER II. Roll Call
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER III. Approval of the Minutes
ANTHONY JUSTMAN
MERRIE T. LIGHTNER IV. Remarks from the Public
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTICE OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Monday, 6:00 p.m.,
September 27, 1999
25 Van Ness Avenue, #320

(Note change of location - this meeting only)

AGENDA

V. Communications

VI. Director's Report

VII. Old Business

A. Interest Rate When Capital Improvement Work is Financed With
a Variable Rate Mortgage

B. Rules and Regulations Section 6.14

C. Rules and Regulations Section 6.15 (Leno Legislation)

D. Costa-Hawkins

E. Ellis Act Amendments

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and
Regulations, members of the public shall be limited to
comments of no more than 3 minutes' duration.

VIII. New Business

IX. Calendar Items

X. Adjournment

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City and County of San Francisco



SHARON K. WASSERMAN

PRESIDENT

7/99
POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE SPECIAL MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

Monday, September 27, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 320

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

OCT 18 1999

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I. Call to Order

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:08 p.m.

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II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Murphy;

Wasserman.

Commissioners not Present: Mosser.

Staff Present: Wolf.

Commissioner Marshall appeared on the record at 6:14 p.m.;
Commissioner Justman arrived at 6:20 p.m.

III. Old Business

A. Interest Rate When Capital Improvement Work is Financed With a Variable Rate Mortgage

At the request of the Landlord Commissioners, this issue was taken off calendar for the time being.

B. Ellis Act Amendments

Senior Hearing Officers Tim Lee and Sandy Gartzman prepared a Memorandum for the Board explaining amendments to the Ellis Act codified in Senate Bill 948, recently passed by the Legislature. SB 948 will require amendments to the Rent Ordinance, which staff will prepare and submit to the Board shortly.

C. Costa-Hawkins

Deputy Director Wolf informed the Board that Senate Bill 1098, recently passed by the State Legislature, amends certain provisions of the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.53), which may require that the Rent Board amend its proposed package of amendments to the Rent Ordinance forwarded to the Board of Supervisors. Deputy City Attorney Marie Blits will

prepare an explanatory Memo for the Commissioners and appear at the October 19th Board meeting in order to answer any questions they may have.

D. Proposed Amendments to Rules and Regulations Section 6.15 in Conformity With Legislation Regarding Replacement Roommates Sponsored by Supervisor Leno

Discussion of this issue was continued from the meeting on September 7th. Deputy Director Wolf had given the Commissioners a Memorandum with proposed language authored by Senior Hearing Officer Tim Lee that would conform the procedures for obtaining consent to a replacement roommate in the event of an absolute prohibition against subletting with the current procedures outlined in Rules Section 6.15. The Leno legislation provides that, in the event of an enforceable absolute prohibition against subletting, if a landlord fails to respond to a tenant's request to sublease within 14 days, the subtenancy is deemed approved. The Commissioners wanted it to be made clear that this does not affect the provision in Rules Section 6.15(c)(iii) that allows a landlord five days to process a new subtenant's application in the event of a consent clause. The language shall also be modified to make clear that the provisions of Section 6.15 apply only if the tenant requesting permission to sublease continues to reside in the unit. The proposed language will be re-drafted and discussion of this issue will be continued to the meeting on October 5th.

E. Rules and Regulations Section 6.14/Costa-Hawkins

Prior to commencing discussion of this issue, the Board passed the following motion:

MSC: To waive attorney-client privilege regarding the contents of the Confidential Memorandum to the Board from Deputy City Attorney Marie Blits. (Gruber/Lightner: 5-0)

Commissioner Lightner has proposed certain amendments to Rules and Regulations Section 6.14 in order to further conform that Section to the requirements of the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50, et seq.). Commissioner Murphy opened the discussion by stating that he believes that, pursuant to the provisions of Costa-Hawkins, sub-tenants and assignees who did not reside in a unit prior to January 1, 1996 are in a completely different legal position than those tenants who resided in the unit prior to that time. The Board's discussion focused on the extent of those differences and the question of what would constitute acquiescence to the tenancy by the landlord and waiver of the right to give an unlimited rent increase. Commissioner Marshall agreed late in the discussion that there are differences between pre- and post- January 1996 tenants, and suggested that the Landlord and Tenant Commissioners each draft versions of Section 6.14: one for each of these categories of tenants. Deputy Director Wolf asked if the Board wished to distinguish between tenants, co-tenants and subtenants, since the language in Costa-Hawkins specifies "sublessees and assignees" only. Commissioners Lightner and Murphy said that they believe that replacement roommates are assignees. Since Senior Hearing Officer Tim Lee originally

raised this question, Commissioner Murphy asked that Mr. Lee draft a Memorandum to the Board distinguishing these different categories of tenant, including the research that he bases his conclusions on. This issue will be continued to the meeting on October 19th.

IV. Remarks from the Public

Miguel Wooding of the Tenants' Union commented on the Commissioners' discussion of Costa-Hawkins and Rules and Regulations Section 6.14.

V. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Commissioners that Frederick Hobson has been appointed as the Alternate Tenant Commissioner for Commissioner Becker. Mr. Hobson will be sworn in by the Mayor on Wednesday, September 29th.

VI. Calendar Items

October 5, 1999

9 appeal considerations (1 post. from 9/7/99)

Old Business: Rules Section 6.15 (Leno Legislation)

October 12, 1999 - NO MEETING

VII. Adjournment

President Wasserman adjourned the meeting at 8:45 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
October 5, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

for Corp 1st Post 9/30/99
DOCUMENTS DEPT.

5/99

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

OCT 05 1999

SAN FRANCISCO
PUBLIC LIBRARY

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 3751 Cesar Chavez (Army) St. T001-17A
(post. from 9/7/99)

The landlord appeals the decision granting a claim of unlawful rent increase.

B. 3501 Fillmore St. U001-23R

One tenant appeals the decision granting certification of capital improvement costs.

C. 1004-1/2 Dolores St. U001-24R

One tenant appeals the decision granting certification of capital improvement costs.

D. 261 - 23rd Ave. #2 U001-27R

The tenant appeals the decision denying a claim of unlawful rent increase.

E. 1418 Larkin St. #3 U001-25R

One tenant appeals the decision granting rent increases based on increased operating expenses, alleging non-receipt of the notice of rent increase.

F. 656 O'Farrell #401, 304 & 402 U001-29 thru -31R

Three tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

G. 4410 - 17th St. U001-19A

The landlord appeals the decision granting rent reductions due to decreased housing services.

H. 1817 Church St. U001-18A

The landlord appeals the decision granting a claim of unlawful rent increase.

I. 3101 Laguna St. #302 U001-28R

The tenant appeals the decision partially granting claims of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Rules and Regulations Section 6.15 (Leno Legislation)

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN

PRESIDENT

199
POLLY MARSHALL

VICE-PRESIDENT

MAYOR

JOSEPH GRUBB

EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, October 5, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

OCT 18 1999

I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

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PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Mosser;
Wasserman.
Commissioners not Present: Murphy.
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:12 p.m.;
Commissioner Marshall arrived at the meeting at 6:14 p.m.; and
Commissioner Justman appeared at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 21, 1999.
(Becker/Gruber: 4-0)

IV. Consideration of Appeals

A. 3751 Cesar Chavez (Army) St.

T001-71A
(post. from 9/7/99)

The tenant's petition alleging unlawful increases in rent was granted, and the landlords were found liable to the tenant in the amount of \$16,560.00. The subject two-unit building had been exempt from Rent Board jurisdiction until the death of one of the owners in 1987. Since the owner died intestate, the Court set aside a Homestead to his wife, the surviving spouse, and distributed a one-third interest in the property to her, and a 1/3 interest to each of the couple's two daughters. Therefore, the property was no longer exempt at the time that rent increases were given in 1987, 1989, and 1992. The current owners took title to the property in 1998. On appeal, they assert that: the decision is unjust, because the current owners relied on an Estoppel Certificate completed by the tenants prior to their purchase of the property, and had no reason not to believe that the property had been exempt due to owner-occupancy; the tenants' claim should be barred by the equitable defenses of laches and estoppel; and two

years of rent overpayments were made to the prior owners, and should not have to be refunded by the new owners.

This matter was continued from the meetings on July 20th, August 17th and September 7th because the parties were attempting to settle this matter themselves.

MSC: To accept the appeal and remand the case to the hearing officer to hold a hearing and explore whether the equitable defense of laches is applicable. The hearing officer will take evidence on the allegations of wrongful eviction attempts, and take any evidence of unclean hands on the part of the landlords that are proved by the tenants into account.
(Marshall/Becker: 3-2; Gruber, Lightner dissenting)

B. 3501 Fillmore St.

U001-23R

The landlords' petition for certification of capital improvement costs to 17 of 27 units was granted, in part. One tenant appeals the decision, asserting that: the office in the building is used in the management of other properties; the fire extinguishers were purchased for another building; the tenants are already paying for the cost of painting the lobby; and the cost claimed for the new, upper roof is excessive.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

C. 1004-1/2 Dolores St.

U001-24R

The landlord's petition for certification of capital improvement costs to 5 out of 6 units was granted, in part. One tenant, who failed to appear at the hearing, appeals on the following grounds: that the base rent amount for his unit is in error, since he is the on-site property manager and his base rent is discounted for the services he provides; that he does not benefit from the roof repairs that were effectuated since his roof is not attached to the roof that was repaired; and that he has suffered a reduction in housing services due to the work that was done.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

D. 261 - 23rd Ave. #2

U001-27R

The tenant's petition alleging an unlawful rent increase was denied because the hearing officer found that the tenant had failed to prove that the amount the tenant's rent had been reduced for provision of managerial services was \$50.00, rather than \$20.00. Upon appeal, the case was remanded to the hearing officer to examine a letter in the file referring to the amount of the rent reduction. The Decision of Hearing Officer on Remand affirmed the original Decision. The tenant again appeals, claiming that the hearing officer was biased against him; that his sworn testimony at the hearing constituted proof of

the verbal contract between the parties; and that the contract with the current property managers had been severed and is no longer relevant.

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Marshall dissenting)

E. 1418 Larkin St. #3

U001-25R

The landlords' petition for 7% rent increases based on increased operating expenses was granted to the tenants in 6 units. One tenant appeals the decision, claiming not to have received the notice of rent increase. The tenant therefore asserts that the effective date of the rent increase in the Decision is incorrect.

MSC: To accept the appeal and remand the case on the issue of the tenant's alleged non-receipt of the notice of rent increase; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

F. 656 O'Farrell #401, 304 & 402

U001-29 thru -31R

The landlord's petition seeking certification of capital improvement costs to 14 of 16 units was granted, in part. The tenants in three units appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenants in unit #401 and remand the case for a hearing on the tenants' claim of financial hardship. (Lightner/Gruber: 5-0)

MSC: To accept the appeal of the tenant in unit #304 and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Gruber: 5-0)

MSC: To accept the appeal of the tenants in unit #402 and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Gruber: 5-0)

G. 4410 - 17th St.

U001-19A

The landlord's appeal was filed almost a month late because the landlord had been ill.

MSC: To find good cause for the late filing of the appeal. (Lightner/Gruber: 5-0)

The tenants' petition alleging substantial decreases in housing services due to poor water quality and a defective toilet were granted, and the landlord was found liable to the tenants in the amount of \$2,231.25. On appeal, the landlord claims the Decision is in error in stating that the water was not tested from inside of the unit.

MSC: To accept the appeal and remand the case for a hearing to consider the letters from the Public Utilities Commission submitted by the landlord on appeal. (Becker/Marshall: 5-0)

H. 1817 Church St.

U001-18A

The tenants' petition alleging an unlawful increase in rent because the landlord asked for an additional \$50.00 due to the tenants' parking two, instead of one, vehicle in the garage was granted. On appeal, the landlord maintains that the language in the lease that does not prohibit the tenants from parking a second car in the garage does not override the clause that provides that one parking space only was included with rental of the premises.

MSC: To accept the appeal and remand the case to the hearing officer on the record to issue a new decision finding that the \$50.00 charge for parking was not an unlawful rent increase but, rather, a permissible increase in rent for an additional housing service. (Gruber/Lightner: 3-2; Becker, Marshall dissenting)

I. 3101 Laguna St. #302

U001-28R

The tenant's petition alleging substantially decreased housing services due to roof leaks over a 5-year period was granted, and the landlord was found liable to the tenant in the amount of \$2,075.00. On appeal, the 80-year old tenant claims that the rent reduction granted is inadequate compensation for the extreme inconvenience that she suffered for six months out of every year since 1994; and that prior to the issuance of the decision, the attorney for the landlord had offered a settlement of three times the amount ordered in the Decision.

MSC: To deny the appeal on the decrease in services claims only; no determination is made, however, as to any damage claims (emotional, medical, etc.) that the tenant may have and wish to pursue in another forum. (Lightner/Justman: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. An Organizational Chart for the Office of the Rent Board.
- B. A current list of amendments to the Ordinance.
- C. The office workload statistics for the month of August, 1999.
- D. An announcement of a Community Meeting from the Mayor's Office of Children, Youth and Families.

E. A letter to the Executive Director from Thomas Ramm of the Small Property Owners of San Francisco.

VI. Director's Report

Executive Director Grubb informed the Board that legislation sponsored by Supervisor Amos Brown requiring a study of the effects of rent control in San Francisco after 20 years will be heard before the Finance Committee on Wednesday, October 13th at 10:00 a.m.

VII. Old Business

Proposed Amendments to Rules and Regulations Section 6.15 in Conformity With Legislation Regarding Replacement Roommates Sponsored by Supervisor Leno

Discussion of this issue was continued from the meeting on September 27th. The Board approved language conforming the procedures for obtaining consent to a replacement roommate in the event of an absolute prohibition against subletting with the current procedures outlined in Rules Section 6.15, with the exception of subsection (a). Commissioner Marshall will re-draft the proposed language to continue to provide that the failure of a landlord to disclose and get the tenant's agreement to an absolute prohibition against subletting or assignment will result in the landlord being unable to evict pursuant to the breach of any such clause. Additionally, at the request of the other Commissioners, Commissioner Marshall will separate and make clear which provisions of Section 6.15 apply to situations where there is an absolute prohibition against subletting, and which apply to situations where there is not. Further discussion of this issue will be continued to the meeting on October 19th.

VIII. Calendar Items

October 12, 1999 - NO MEETING

October 19, 1999

7 appeal considerations
6:30 Appeal Hearing: 1935 Franklin #503 (T001-70A) (acpt. 8/3/99)
Old Business:

- A. Costa-Hawkins
- B. Rules and Regulations Section 6.15 (Leno)
- C. Rules and Regulations Section 6.14

IX. Adjournment

President Wasserman adjourned the meeting at 8:06 p.m.

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

Tuesday, 6:00 p.m.,
October 19, 1999

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

Fax Copy 1st posted 10/15/99 p
DOCUMENTS DEPT.

19/99
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY

I.	Call to Order	OCT 18 1999
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Consideration of Appeals	

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A.	58 Malta Dr.	U001-21A
The landlord appeals the decision granting a claim of unlawful rent increase.		
B.	926 Grove St.	U001-20A
The landlord appeals the decision granting a claim of decreased housing services.		
C.	890 Page St. #4 & #6	U001-34 & -36R
Two tenants appeal the remand decision certifying capital improvement costs.		
D.	241 Upper Terrace	U001-22A
The landlord appeals the decision certifying capital improvement costs, alleging incorrect allocation.		
E.	1165 Bay St. #12	U001-33R
The tenant appeals the decision allowing a market rent increase pursuant to Rules and Regulations Section 6.14.		

F. 2386 Fulton St.

U001-24A

The landlord appeals the decision granting claims of decreased housing services, including withdrawal of the right to sublet.

G. 790 Church St. #105

U001-23A

The landlord appeals the decision granting a rent reduction due to decreased housing services.

VI. Appeal Hearing

6:30 1935 Franklin St. #503

T001-70A

(acpt. 8/3/99)

The landlord appeals the decision granting a claim of unlawful rent increase in a case involving assignment of rental units.

VII. Communications

VIII. Director's Report

IX. Old Business

A. Costa-Hawkins

B. Rules and Regulations Section 6.15 (Leno Legislation)

C. Rules and Regulations Section 6.14

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

Tuesday, October 19, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

NOV 05 1999

I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Marshall;

Wasserman.

Commissioners not Present: Lightner; Mosser.

Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:16 p.m.; Commissioner Justman arrived at the meeting at 7:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 27th and October 5th, 1999. (Becker/Marshall: 4-0)

IV. Remarks from the Public

Fred Heller, the landlord in the case at 1165 Bay St #12 (U001-33R), informed the Commissioners that he was in attendance.

V. Old Business

A. Costa Hawkins

Deputy City Attorney Marie Blits appeared to discuss Senate Bill 1098, which amended the Costa Hawkins Rental Housing Act (California Civil Code Sections 1954.40, et seq.). This recently enacted legislation amends existing Civil Code Section 1954.53 and adds Section 1954.535, resulting in certain rent control provisions for Section 8 units coming under rent control; and revision/clarification of the provisions exempting units with long-term health and safety code violations from Costa-Hawkins. Ms. Blits recommended mirroring the language of SB 1098 pertaining to Section 8 units in our Ordinance; she will draft such amendments for the Board's approval and forwarding to the Board of Supervisors. However, the Board's original package of suggested Costa-

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Hawkins amendments to the Rent Ordinance did not include the original health and safety code violation language in Costa-Hawkins because this would effectuate vacancy control. Ms. Blits agreed to draft amendments including the new language for discussion at the Board's Special Legislative Session on November 16th.

B. Rules and Regulations Section 6.15 (Leno Legislation)

Commissioner Marshall distributed a re-draft of Rules Section 6.15 which would conform the procedures for obtaining a replacement roommate in the event of an absolute prohibition against subletting with those contained in Rules Section 6.15, in accordance with recent legislation sponsored by Supervisor Leno and approved by the Board of Supervisors. Commissioner Marshall's re-draft separates and makes clear which provisions of Section 6.15 apply to situations where there is an absolute prohibition and which apply to situations where there is not. This issue will be discussed further at the Special Legislative Session on November 16th.

C. Rules and Regulations Section 6.14

Senior Hearing Officer Tim Lee appeared to discuss a Memorandum he prepared at Commissioner Murphy's request, analyzing the provisions of Costa-Hawkins as they relate to Rules Section 6.14. Specifically, since the right to a market rent increase under Costa-Hawkins applies only to a post-January 1, 1996 "sublessee or assignee", Mr. Lee's Memorandum sets forth his research into and understanding of the distinctions between "tenants", "sublessees" and "assignees." Mr. Lee also attached a proposed amended 6.14 that he believes comports with the requirements of Costa-Hawkins. Further discussion of this issue was continued to the November 16th Special Legislative Session.

VI. Consideration of Appeals

A. 890 Page St. #4 & #6

U001-34 & -36R

The landlord's petition for certification of capital improvement costs to five of six units was granted. Upon appeal from the landlord, the case was remanded only on the issues of the proper base rent for the tenant in unit #3 and to determine the applicability of the 6-Month Rule to the tenant in unit #4. In the Decision on Remand, the Hearing Officer determined that the 6-Month Rule was inapplicable to the tenant in unit #4 because ownership had changed during the relevant 6-month period, and the new owner commenced the work but had not had an opportunity to set the rent for the unit. The tenant in unit #6 now appeals the remand decision, although he did not appeal the original decision and neither of the issues on remand pertain to his unit, alleging that no changes have been made to his apartment and that his portion of the common area does not look like everyone else's. The tenant in unit #4 contests the reversal of the Hearing Officer's determination of the 6-Month Rule's applicability to his tenancy.

MSC: To deny the appeal of the tenant in unit #6.
(Gruber/Murphy: 5-0)

MSC: To deny the appeal of the tenant in unit #4.
(Gruber/Murphy: 5-0)

B. 1165 Bay St. #12

U001-33R

The landlord's petition requesting a determination as to whether the landlord is entitled to a rent increase pursuant to Rules and Regulations Section 6.14 was granted, and an increase in rent from \$1,210.05 to \$2,200.00 was found to be warranted under the facts of this case. On appeal, the tenant claims that the landlord's handyman, who knew of her presence in the building, had apparent authority to act as the landlord's agent, and represented himself as such; and, since she was not served with a notice pursuant to Rules and Regulations Section 6.14 within 60 days of the agent's knowledge of her presence in the building, the proposed increase is unlawful.

MSC: To deny the appeal. (Gruber/Murphy: 4-1; Becker dissenting)

C. 2386 Fulton St.

U001-24A

The tenants' petition alleging substantial decreases in housing services was granted and the landlords were found liable to the tenants in the amount of \$572.00 for inadequate bathroom facilities and \$1,155.00 for loss of the right to sublet without written permission. The landlords appeal, claiming that: the issue of the unlawful rent increase was not properly before the hearing officer and resulted from all of the original tenants on the lease having vacated the unit; the landlords never withheld the tenants' right to sublet but, rather, insisted that the tenants obtain consent to a replacement roommate prior to that person moving in to the unit; the hearing officer erred in determining that the tenants had requested a change in roommates no more than once within the previous 12 months, pursuant to Rules Section 6.15; it is not true that the tenant works at home and she therefore was not seriously inconvenienced during a period of construction; the tenants' bathroom facilities were impacted for a significantly shorter period of time than that found by the hearing officer; and the project took longer than anticipated due to unreasonable restrictions placed on access by the tenants.

MSC: To accept the appeal and remand the case to the hearing officer to find that enforcing a consent clause in a rental agreement does not constitute a decrease in housing services; to grant a rent reduction only for the period of time that consent to subletting was unreasonably withheld by the landlord; and to determine whether the rent increase was the result of all of the original occupants having vacated the unit.
(Marshall/Becker: 5-0)

VII. Board Hearing

1935 Franklin St. #503

T001-70A
(acpt. 8/3/99)

The tenants' petition alleging an unlawful rent increase from \$930 to \$1,650.00 per month was granted. The tenants had switched apartments with the tenants in another unit in the building and created an assignment of the tenancies at the same rent with the consent of the prior resident manager of the building. Therefore, the hearing officer found the tenants to be "original tenants" within the meaning of Rules and Regulations Section 6.14. On appeal, the landlord asserted that: pursuant to the provisions of Civil Code Section 1954.53 (Costa-Hawkins), the landlord had the right to increase the rent because the tenants did not occupy the rental unit prior to January 1, 1996; a landlord's knowledge or consent to an occupancy is not consent to a rent level as the issues are separate and distinct and the tenants cannot assign a statutory right held by the owner; the tenants in this case engaged in a concerted effort to obtain a larger apartment without having to pay market rent for the unit; and the hearing officer failed to make the tenants meet their burden of proving the rent increase to be unlawful but, rather, put the onus on the landlord to prove that the increase was lawful. At the meeting on August 3, 1999, the Board voted to accept the appeal and schedule a Board hearing on the issues of the apparent authority of the agent and waiver pursuant to Costa-Hawkins.

The appeal hearing commenced at 7:50 pm. and concluded at 10:55 p.m. In appearance were tenants Barbara Brown and Dahmane Djermouli, and their counsel, Jonathan McCurdy. The landlord was represented by Merrie Turner Lightner and Attorneys Nancy Lenvin and Anthony Head, and appeared with witnesses Arthur T. Swanson, Jr., Abigail Glynn, William Lightner, Jr., and Jack B. Sumski. Prior to commencement of the hearing, Nancy Lenvin requested that the caption on the appeal decision reflect that the landlord in this case is "Profita Holding NV", and not Lightner Property Group, which is the asset manager for the landlord. Also prior to commencement of the hearing, the Board passed the following motion:

MSC: To recuse Commissioner Becker from consideration of this case. (Marshall/Wasserman: 5-0)

Testimony at the hearing focused on the circumstances surrounding the assignment of the subject unit, and the authority of the prior resident manager to agree to such a swap. After discussion and consideration of the relevant evidence, the Board agreed that, although it seems that the prior resident manager should not have consented to the exchange of units since his authority to do so had apparently been revoked, he still had apparent authority sufficient for the tenants to rely upon. Additionally, since the agent for the landlord with ostensible authority received notice in writing of the assignment and thereafter accepted rent, the rent increase is not allowed pursuant to Costa-Hawkins (Civil Code Section 1954.53). Therefore, the Board passed the following motion:

MSC: To deny the appeal. (Marshall/Hobson: 3-2; Gruber, Murphy dissenting)

VI. Appeal Considerations (cont.)

D. 790 Church St. #105

U001-23A

The tenant's petition alleging a substantial reduction in housing services due to the loss of use of a deck for 9-1/2 months was granted and the landlord was found liable to the tenant in the amount of \$1,634.00. On appeal, the landlord asserts: that the base rent amount used for ascribing a percentage value to the lost service should not include a \$100 charge for parking; that the time period for the rent reduction should be reduced by 60 days, which is a reasonable time for the landlord to have effectuated the repairs; and that the housing service has been mis-characterized as a deck, when it is really a patio, and which the tenant retained the use of, in part.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

E. 58 Malta Dr.

U001-21A

The tenant's petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenant in the amount of \$1,150.00. On appeal, the landlord claims that the rent increase was justified because a new lease agreement was entered into; that he should not be punished for allowing the tenants to obtain replacement roommates; the amount of rent paid by the replacement roommate was not known to the landlord nor within his control; that there is a mathematical error in the overpayment calculation; and the amount owing should be offset by increases that the landlord would have been entitled to.

MSC: To accept the appeal and remand the case to the hearing officer to make a mathematical correction and to determine whether the outcome of this case is affected by Costa-Hawkins; a hearing will be held only if necessary.
(Murphy/Marshall: 5-0)

F. 926 Grove St.

U001-20A

The tenant's petition alleging an unlawful rent increase based on an increase in the garage parking charge was granted and the landlord was found liable to the tenant in the amount of \$225.00. Additionally, decreased service claims due to a clogged bathroom sink and constantly running toilet were granted in the amounts of \$150.00 and \$100.00 respectively. On appeal, the landlord asserts that: a commercial lease was entered into for rental of the parking space, which is not under the jurisdiction of the Rent Board; the person entering into the agreement for the parking space on behalf of the landlord had no authority to do so; the tenant failed to give proper notice of the need for repairs; the problem with the sink was caused by the tenant and was therefore her responsibility to repair; and the amount granted is disproportionate to the extent of the problems.

MSC: To accept the appeal and remand the case to the hearing officer to determine whether the parking lot is on a parcel separately alienable from the property and whether the rental of the parking space is commercial or residential.
(Becker/Marshall: 5-0)

G. 241 Upper Terrace

U001-22A

The landlord's petition for certification of capital improvement costs to four of five units was granted, in part. On appeal, the landlord objects to the hearing officer's allocation of costs, claiming that: the reduction of 25% of the costs for inaccessible areas is unfair because it is not true that these areas are off-limits to the tenants; the Golden Gateway decision holds that no decrease in housing services occurs during reasonably necessary repair and maintenance work; the basement office is used for operation of the building, which benefits the tenants, and therefore no percentage of the costs should be allocated to the office space; if the office must share in the allocation, it should be done on a square footage basis; and the deck that the tenants are not allowed to use comprises only 8.6% of the total square footage, and not 20%.

MSC: To accept the appeal and remand the case to the hearing officer on the issue of the proper allocation of the costs for the rear decks; a hearing will be held only if necessary.
(Becker/Gruber: 5-0)

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of legislation introduced by Supervisor Becerril in conjunction with the Office of the District Attorney to strengthen civil and criminal penalties for violations of the Rent Ordinance.

VIII. Calendar Items

October 26, 1999 - NO MEETING

November 2, 1999 - NO MEETING (Election Day)

November 9, 1999

8 appeal considerations

Old Business:

- A. Ellis Amendments
- B. Rules and Regs. Section 6.15 (Leno Legislation)
- C. Rules and Regs. Section 6.14

IX. Adjournment

President Wasserman adjourned the meeting at 11:40 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
November 9, 1999

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
199 VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOV 05 1999

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NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 3629 Mission St.

U001-28A

The landlord appeals the decision denying a claim of unlawful rent increase but granting a claim of decreased housing services.

B. 765 Sutter St. #206

U001-41R

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 123 Sanchez St. #8

U001-26A

The landlord appeals the decision granting a claim of unlawful rent increase.

D. 3271 Harrison St.

U001-29A

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

E. 93 Stanyan St.

U001-39R

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

F. 999 Bush St. #302

U001-38R

One tenant appeals the decision certifying capital improvement costs on the basis of financial hardship.

G. 2084 Mission St.

U001-30A

An individual appeals the decision granting claims of decreased housing services, asserting that they are not properly captioned as the landlord.

H. 184 Funston Ave. #1, 3, 4, 7 & 9 U001-42R thru -46R

The tenants in five units appeal the decision certifying capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Ellis Act Amendments

B. Rules and Regulations Section 6.14
(Exchange of Draft Proposals)

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



9/99
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, November 9, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

I. Call to Order

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioner Becker called the meeting to order at 6:00 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Justman;

Mosser; Murphy.

Commissioners not Present: Marshall; Wasserman.

Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:05 p.m.

DOCUMENTS DEPT

III. Approval of the Minutes

MSC: To approve the Minutes of October 19, 1999.
(Gruber/Justman: 5-0)

NOV 16 1999

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IV. Remarks from the Public

Angela Johnson, the landlord involved in the case at 3629 Mission St. (U001-28A), told the Board that the Notice of Hearing in her case was sent to the property address. Since she does not live there, she contends that she did not get the notice in time to attend the hearing. She also said that the unlawful rent increase that she gave the tenant was based on information that the tenant had given her regarding the rent history of the unit.

V. Old Business

A. Ellis Act Amendments

Senior Hearing Officer Tim Lee appeared to answer any questions from the Board regarding proposed amendments to the Rent Ordinance necessitated by the passage of SB 948. Mr. Lee explained that SB 948 amended the Ellis Act as follows: 1) the effective date of withdrawal of the rental units is extended from 60 to 120 days generally, and to one year for senior or disabled tenants; 2) the time period for filing a lawsuit and the amount of exemplary damages recoverable for violations of the Act are increased; and 3) there is clarification

as to the fact that the Act does not preempt local regulation of nonresidential uses or local controls on demolition or redevelopment of withdrawn property. After going over a few clerical corrections to the draft amendments suggested by Deputy City Attorney Marie Blits, the Board voted as follows:

MSC: To approve the proposed amendments to the Rent Ordinance in order to conform it to the requirements of the Ellis Act.
(Lightner/Bierly: 5-0)

The proposed amendments will now be forwarded to the Board of Supervisors for their consideration.

VI. Consideration of Appeals

A. 3629 Mission St.

U001-28A

The tenant's petition was granted as to various decreased housing services claims and the landlord, who failed to appear at the hearing, was found liable to the tenant in the amount of \$1,802.50. On appeal, the landlord claims not to have received notice of the hearing timely, because it was delivered to the subject building; that she ought not to be held responsible for problems that had existed for many years under prior ownership of the building, especially since she has undertaken repairs; that the tenant accepted the condition of the unit when she rented it; that the tenant was uncooperative in providing access to the unit; and the tenant's petition is in retaliation for her rent having been increased.

After discussion, this case was continued in order for staff to write to the landlord and obtain a statement under penalty of perjury regarding her failure to appear at the hearing.

B. 765 Sutter St. #206

U001-41R

The tenant's appeal was filed three days late because the Notice of Hearing and Decision were mailed to his roommate, who is currently away from the premises.

MSC: To find good cause for the late filing of the appeal.
(Bierly/Justman: 5-0)

The landlord's petition for certification of the costs of new kitchen vinyl floors and seismic upgrading of the building to 17 of 24 units was granted, resulting in a monthly passthrough in the amount of \$49.43. One tenant appeals the decision on the grounds of financial hardship.

After discussion, this case was continued in order for staff to advise the tenant that a co-tenant, currently away from the unit, must also file a Hardship Application.

C. 123 Sanchez St. #8

U001-26A

The tenant's petition alleging an unlawful increase in rent was granted because the hearing officer found that the tenant had proved that the rental of his unit included a parking space. On appeal, the landlord claims that the hearing officer erred in finding that the landlord had admitted at the hearing that "parking was included in the rent"; that the tenant failed to prove that his rent included a parking space, and the statements he offered as evidence were not executed under penalty of perjury; and the tenant's payment of the \$85.00 charge for parking for a three-year period constitutes a binding contract between the parties and a waiver of any other agreement that may have existed.

MSC: To accept the appeal and remand the case for a hearing to consider the equitable defense of laches; the parties are encouraged to arrive at a mediated settlement of this matter. (Lightner/Gruber: 3-2; Becker, Bierly dissenting)

D. 3271 Harrison St.

U001-29A

MSC: To recuse Commissioner Becker from consideration of this case. (Bierly/Lightner: 5-0)

The tenant's petition alleging substantial decreases in housing services was granted, in part. The landlord was found liable to the tenant in the amount of \$5,866.39 due to the landlord's failure to allow the tenant to obtain a replacement roommate, even though the governing lease contains a consent clause. The tenant failed to meet her burden of proving that certain repair issues constituted substantial decreases in housing services; however, an otherwise allowable rent increase was deferred until the time that the repairs were effectuated. The landlord appeals, maintaining that the hearing officer ignored the fact that the tenant is violating the rental agreement by having house guests, for which he could recover possession of the premises; that there are factual errors in the Decision; Rules and Regulations Section 6.15(d) is inapplicable to this case; and the standards for reasonable withholding of consent found in the Kendall case are inapplicable in a residential context.

Since the landlord appellant only received the first page of the Hearing Officer's two-page response memorandum, consideration of this matter was continued in order for the landlord to have an opportunity to reply to the memo.

E. 93 Stanyan St.

U001-39R

MSC: To recuse Commissioner Mosser from consideration of this case. (Becker/Lightner: 5-0)

The landlords' petition for certification of capital improvement costs to one unit in a two-unit building was granted, in part, resulting in a monthly passthrough in the amount of \$112.14. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. Additionally, staff will provide the landlord with a Landlord Hardship Application. The landlord is also advised that he may wish to contact one of the Senior Hearing Officers regarding the possibility of filing a petition based on fair return on investment. The parties are encouraged to arrive at a mediated settlement of this matter. (Becker/Justman: 5-0)

F. 999 Bush St. #302

U001-38R

The landlords' petition for certification of capital improvement costs was granted, in part. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Bierly: 5-0)

G. 2084 Mission St. #32

U001-30A

The owner's appeal was filed almost six months late because the owner asserts that the petition, Notice of Hearing and Decision were sent to an address where she neither resides or receives mail.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Lightner: 5-0)

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$735.00 due to the landlord's failure to provide heat and working fire alarms in the subject residential hotel. On appeal, the individual named as the landlord in the decision asserts that she is the owner of the building, but subleases the building through a commercial lease. Therefore, it is the operators of the hotel who are the instant tenant's landlord.

MSC: To accept the appeal and remand the case for a new hearing with notice to the proper parties. (Gruber/Lightner: 5-0)

H. 184 Funston Ave. #1, 3, 4, 7 & 9

U001-42R thru -46R

The landlords' petition for certification of capital improvement costs for six out of 12 units was granted, in part. Five tenants appeal the decision, asserting that: the costs of the new electric heaters and new electrical service system were not separately itemized; the landlord failed to prove that the old electrical system was insufficient to accommodate the new electric heaters, nor that the boiler needed to be replaced; the new heating system and water heater have resulted in decreased services, rather than improvement to the property; the tenants were given insufficient time to object to the work; the tenants' objections were insufficiently acknowledged in the Decision; the landlord failed to prove that

removal of the underground storage tank was required by law; the sidewalk replacement constituted maintenance; and the untimely issuance of the Decision warrants the Decision being vacated and dismissal of the landlord's petition.

MSC: To deny the appeals. (Gruber/Lightner: 3-2; Becker, Bierly dissenting)

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A Memo from Deputy City Attorney Marie Blits regarding amendments to Berkeley's Rules and Regulations pursuant to Costa-Hawkins.
- B. Ms. Blits' re-draft of proposed amendments to the Rent Ordinance to conform it to Costa-Hawkins in light of recently passed Senate Bill 1098.
- C. The office workload statistics for the month of September, 1999.

VIII. Director's Report

Executive Director Grubb informed the Board that two new counselors, Maria Martinez and Richard Winn, commenced employment as of November 1st. This brings the complement of counselors to ten. One additional counselor will be assigned to the Eviction Unit, and one will be assigned to screening landlord petitions. Additionally, four additional Hearing Officers have been hired as of January 1, 2000: Vanessa Aching Davenport; Peter Kearns; Penelope Pahl; and Lily Lau.

V. Old Business (cont.)

B. Rules and Regulations Section 6.14

On behalf of the landlord community, Commissioner Murphy distributed a proposed revision of Rules and Regulations Section 6.14 in order to conform that Section more closely with the requirements of the Costa-Hawkins Rental Housing Act. Commissioner Becker had already distributed a re-draft on behalf of the tenant community. Commissioner Murphy will also circulate a Memo he is preparing on the issue of waiver. Discussion of this issue will occur at the Board's Special Legislative Session on November 16th.

IV. Remarks from the Public (cont.)

A tenant inquired as to the status of possible amendments to Rules and Regulations Section 6.14. The tenant involved in the hardship appeal concerning 93 Stanyan Street (U001-39R) explained more about his financial circumstances and the problems he's been experiencing with his landlord.

IX. New Business

Commissioner Gruber motivated a discussion of possible dates for the Board's annual Holiday Party. It was agreed by those in attendance that, considering the difficulty of finding a mutually agreeable date in December, this year the Board will hold a Millennium Party in January. The exact date will be decided upon at the November 16th meeting.

X. Calendar Items

November 16, 1999 - SPECIAL LEGISLATIVE SESSION

Rules and Regulations Section 6.15 (Leno Legislation)

Costa-Hawkins

Rules and Regulations Section 6.14

XII. Adjournment

Commissioner Becker adjourned the meeting at 7:30 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE SPECIAL LEGISLATIVE SESSION OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

1/16/99
socia
LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Tuesday, 6:00 p.m.,

November 16, 1999

25 Van Ness Avenue, Suite 320

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Old Business
 - A. Costa-Hawkins (SB 1098)
 - B. Rules and Regulations Section 6.15 (Leno Legislation)
 - C. Rules and Regulations Section 6.14
- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- X. New Business
- XI. Calendar Items
- XII. Adjournment

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City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

6/99
SHARON K. WASSERMAN
PRESIDENT

3
POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, November 16, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 320

DOCUMENTS DEPT

DEC - 8 1999

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

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II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Marshall;
Mosser; Wasserman.
Commissioners not Present: Justman.
Staff Present: Grubb; Lee; Wolf.

Commissioners Lightner and Murphy appeared on the record at 6:13 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 9, 1999.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

Landlord Andrew Long informed the Commissioners that he has had original tenants move out of a unit, return several years later, and try to re-claim status as an "original tenant" of the unit. He asked that the Board clarify situations such as this in Rules and Regulations Sections 6.14 and 6.15.

V. Old Business

A. Costa Hawkins (SB 1098)

Deputy City Attorney Marie Blits appeared to continue the Board's discussion of Senate Bill 1098, which amended the Costa Hawkins Rental Housing Act (California Civil Code Sections 1954.40, et seq.). This recently enacted legislation amends existing Civil Code Section 1954.53 and adds Section 1954.535, resulting in certain rent control provisions for Section 8 units coming under rent control; and revision/clarification of the provisions exempting units with long-term health and safety code violations from Costa-Hawkins. Ms. Blits had recommended mirroring the language of SB 1098 pertaining to Section 8 units in our Ordinance; and the Board agreed that she should draft such

amendments for the Board's approval and forwarding to the Board of Supervisors. However, the Board's original package of suggested Costa-Hawkins amendments to the Rent Ordinance did not include the health and safety code violation language in Costa-Hawkins because this would effectuate vacancy control. Ms. Blits had agreed to draft amendments including the new language for discussion at this evening's Special Legislative Session.

The proposed language read, in part, as follows:

“(A) Where the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this Subsection to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996. However, such a rent increase shall not be permitted where:

(i) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the California Health and Safety Code, excluding any violation caused by a disaster; and”

Commissioner Murphy argued that the code violation language was aimed at jurisdictions that had had vacancy control in the past, such as Berkeley and Santa Monica. He felt that the language was only supposed to apply in the event of a vacancy, whereas the proposed language adds the requirement that there be no code violations on the premises in order to obtain a market rent increase in the event of a sublet. Commissioner Marshall argued that subletting in the context of Costa-Hawkins is equivalent to a vacancy, since the landlord gains the opportunity to set a new rent.

Senior Hearing Officer Tim Lee suggested that the Board change the word “where” in the last line of paragraph (A) to “while”, which would have the effect of merely deferring the market rent increase until the conditions were remediated, similar to the Failure to Repair remedy found in Rules and Regulations Section 10.11. With this amendment, the Board passed the following motion:

MSC: To approve the proposed amendments suggested by the Deputy City Attorney to conform the Rent Ordinance with SB 1098 and forward them to the Board of Supervisors as part of the package of suggested amendments to conform the Rent Ordinance to the Costa-Hawkins Rental Housing Act.
(Lightner/Gruber: 5-0)

B. Rules and Regulations Section 6.15 (Leno Legislation)

Commissioner Marshall had distributed a re-draft of Rules Section 6.15 which would conform the procedures for obtaining a replacement roommate in the

event of an absolute prohibition against subletting with those contained in Rules Section 6.15, in accordance with recent legislation sponsored by Supervisor Leno and approved by the Board of Supervisors. Commissioner Marshall's re-draft separates and makes clear which provisions of Section 6.15 apply to situations where there is an absolute prohibition and which apply to situations where there is not. After discussion and some amendments to the proposal, the Board voted as follows:

MSC: To put the proposed amendments to Rules and Regulations Section 6.15 out for Public Hearing on December 21, 1999.
(Marshall/Becker: 5-0)

The proposed amended Section 6.15 reads as follows:

Section 6.15A Subletting and Assignment - Where Rental Agreement Includes an Absolute Prohibition Against Subletting and Assignment

This Section 6.15A applies only when a lease or rental agreement includes an absolute prohibition against subletting and assignment.

(a) For agreements entered into on or after May 25, 1998, breach of an absolute prohibition against subletting or assignment may constitute a ground for termination of tenancy pursuant to, and subject to the requirements of, Section 37.9(a)(2) and subsection (b) below, only if such prohibition was adequately disclosed to the tenant at the commencement of the tenancy. For purposes of this subsection, adequate disclosure shall include satisfaction of one of the following requirements:

(1) the prohibition against sublet or assignment is set forth in enlarged or boldface type in the lease or rental agreement and is separately initialed by the tenant; or

(2) the landlord has provided the tenant with a written explanation of the meaning of the absolute prohibition, either as part of the written lease or rental agreement, or in a separate writing.

(b) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, then the replacement of one or more of the tenants by an equal number of occupants, subject to subsections (c) and (d) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

(c) If the tenant makes a written request to the landlord for permission to sublease in accordance with Section 37.9(a)(2), and the landlord fails to respond in writing within fourteen (14) days of receipt of the tenant's written request, the subtenancy is deemed approved pursuant to Ordinance Section 37.9(a)(2)

(d)(1) The Tenant's inability to obtain the landlord's consent to subletting or assignment shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the subletting or assignment is deemed approved pursuant to subsection (c) above or where the landlord has unreasonably withheld consent to such change. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to the sublease or assignment prior to the commencement of the proposed new subtenant's occupancy of the unit;

(ii) The proposed new subtenant, if requested by the landlord, has completed the landlord's standard form application, or, in the event the landlord fails to provide an application or has no standard form application, the proposed new tenant or new subtenant has, upon request, provided sufficient information to allow the landlord to conduct a typical background check, including credit information, income information, references, and background information;

(iii) The tenant has provided the landlord five (5) business days from receipt of the application to process the proposed new subtenant's application;

(iv) The proposed new subtenant meets the regular reasonable application standards of the landlord;

(v) If asked, the proposed new subtenant has agreed in writing to be bound by the current rental agreement between the landlord and the tenant;

(vi) The tenant has not, without good cause, requested landlord consent to a new tenant or new subtenant more than one time per existing tenant residing in the unit during the previous 12 months;

(vii) The tenant is requesting replacement of a departing tenant or tenants with an equal number of new occupants.

(2) This subsection (d) shall not apply to assignment of the entire tenancy or subletting of the entire unit.

(e) Where a lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, failure of the landlord to consent to the replacement of one or more of the tenants by an equal number of occupants, subject to subsection (d)(1) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

(f) Nothing in this Section shall prevent the landlord from providing a new occupant with written notice as provided under Section 6.14 that the occupant is not an original tenant as defined in Section

6.14(a) and that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

Section 6.15B Subletting and Assignment - Where Rental Agreement Contains a Clause Requiring Landlord Consent to Subletting and Assignment

This Section 6.15B applies only when a lease or rental agreement includes a clause requiring landlord consent to assignment or subletting.

(a) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, then the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (b) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

(b) The tenant's inability to obtain the landlord's consent to subletting or assignment shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the landlord has unreasonably withheld consent to such change. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to the sublease or assignment prior to the commencement of the proposed new subtenant's occupancy of the unit;

(ii) The proposed new subtenant, if requested by the landlord, has completed the landlord's standard form application, or, in the event the landlord fails to provide an application or has no standard form application, the proposed new subtenant has, upon request, provided sufficient information to allow the landlord to conduct a typical background check, including credit information, income information, references, and background information;

(iii) The tenant has provided the landlord five (5) business days to process the proposed new subtenant's application;

(iv) The proposed new subtenant meets the regular reasonable application standards of the landlord;

(v) The proposed new subtenant has agreed to sign and be bound by the current rental agreement between the landlord and the tenant;

(vi) The tenant has not, without good cause, requested landlord consent to a new subtenant more than one time per existing tenant residing in the unit during the previous 12 months;

(vii) The tenant is requesting replacement of a departing tenant or tenants with an equal number of new tenants.

(2) This subsection (b) shall not apply to assignment of the entire tenancy or subletting of the entire unit.

(e) Where a lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, failure of the landlord to consent to the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (b) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

(f) Nothing in this Section shall prevent the landlord from providing a replacement new subtenant with written notice as provided under Section 6.14 that the tenant is not an original tenant as defined in Section 6.14(a) and that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

Section 6.15C Master Tenants

(1) For any tenancy commencing on or after May 25, 1998, a landlord who is not an owner of record of the property and who resides in the same rental unit with his or her tenant (a "Master Tenant") may evict said tenant without just cause as required under Section 37.9(a) only if, prior to commencement of the tenancy, the Master Tenant informs the tenant in writing that the tenancy is not subject to the just cause provisions of Section 37.9. A landlord who is an owner of record of the property and who resides in the same rental unit with his or her tenant is not subject to this additional disclosure requirement.

(2) In addition, for any tenancy commencing on or after May 25, 1998, a Master Tenant shall disclose in writing to a tenant prior to commencement of the tenancy the amount of rent the Master Tenant is obligated to pay to the owner of the property.

C. Rules and Regulations Section 6.14

The Landlord and Tenant Commissioners had distributed draft proposed revisions of Rules and Regulations Section 6.14 that each side believed would comport that Section with the requirements of Costa-Hawkins. On behalf of the Tenant Commissioners, Commissioner Becker remarked on what he believed to be problems in the landlords' draft; Commissioner Murphy did the same regarding the tenants' draft on behalf of the Landlord Commissioners. Neutral Commissioners Wasserman and Justman will now attempt to reconcile the proposals in accordance with applicable law.

VI. Communications

The Commissioners received a copy of the California Supreme Court's denial of a request for depublication of the appellate opinion in the case of Golden Gateway Center v. S.F. Rent Board.

VII. Calendar Items

November 23, 1999

10 appeal considerations

Old Business: Rules and Regulations Section 6.14

November 30, 1999 - NO MEETING

VIII. Adjournment

President Wasserman adjourned the meeting at 10:15 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252-4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available..

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,
November 23, 1999
25 Van Ness Avenue, #70, Lower Level

A G E N D A

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals
 - A. 227 - 7th St. U001-32A
The landlord appeals the decision granting claims of decreased housing services.
 - B. 36 Divisadero St. U001-48R
The tenants appeals the decision granting certification of capital improvement costs and granting a rent increase based on the Past Rent History of a Proposition I Affected Unit.
 - C. 2195 Sacramento #301 & 303 U001-31A
The landlords' petition for certification of capital improvement costs was granted. The landlords appeal only that portion of the decision granting a claim of unlawful rent increase.
 - D. 656 O'Farrell St. #202 U001-49R
The tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.
 - E. 1573 - 48th Ave. #3 U001-47R

The tenant appeals the decision partially granting claims of decreased housing services.

F. 466 Castro St. U001-33A

The landlord appeals the decision granting a claim of decreased housing services but denying a failure to repair claim.

G. 221 Noe #3 U001-50R

The tenant appeals the remand decision certifying capital improvement costs.

H. 257 So. Van Ness Ave. U001-35A

The landlord appeals the remand decision partially certifying capital improvement costs.

I. 367 Capp St. U001-34A

The landlord appeals the decision granting rent reductions due to decreased housing services to the tenants in two units.

J. 1040 Leavenworth St. #21 U001-51R

A tenant receiving tenant-based rental assistance appeals the certification of capital improvement costs to her unit.

VI. Communications

VII. Director's Report

VIII. Old Business

Rules and Regulations Section 6.14

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, November 23, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Marshall;
Mosser; Murphy; Wasserman.
Commissioners not Present: Lightner.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:15 p.m.

III. Consideration of Appeals

A. 227 - 7th St.

U001-32A

The tenant's petition alleging decreased housing services in this live/work unit was granted, in part, and the landlord was found liable to the tenant in the amount of \$5,530.00. On appeal, the landlord explains his failure to appear at the hearing because of a pressing business commitment; and asserts that the relevant lease agreement between the parties is commercial and places responsibility for certain repairs on the tenant.

After discussion, it was the consensus of the Board to continue consideration of this case in order for staff to contact the landlord and obtain a Declaration Under Penalty of Perjury and documentation regarding the alleged business commitment that prevented him from appearing at the hearing.

B. 36 Divisadero St.

U001-48R

The landlords' petition for certification of capital improvement costs and for a 7.2% base rent increase based on the Past Rent History of this Proposition I Affected Unit was granted. The tenants appeal, asserting that: a 42.8% increase that took effect in 1990 should preclude the 7.2% increase, which is not mandatory given the language of Rules Section 6.11(b); sums owing from the tenants to the landlords should be offset against amounts owing from the landlords to the tenants in another case pending before the Board; that the

capital improvement cost allocation is unfair, since the landlord has exclusive use of 60% of the building; and that the roof work did not constitute a capital improvement.

MSC: To deny the appeal except to remand the case to the hearing officer for a Technical Correction regarding the base rent amount, if necessary. (Gruber/Murphy: 5-0)

C. 2195 Sacramento St. #301 & 303

U001-31A

The landlords' petition for certification of capital improvement costs to 15 of 16 units was granted. Additionally, a 206.8% increase in rent to the tenants who jointly occupy two units in the building was found to be unlawful. The landlords appeal only that portion of the decision pertaining to the rent increase on the grounds that: neither of the tenant petitioners are "tenants in occupancy" in unit #303; the predominant use of that unit is commercial, and not residential; the proper interpretation of the policy intent of the Ordinance is that a tenant only have the protections of rent control in one apartment; the Decision results in a "taking" of the landlords' property without just compensation; and the Decision is in violation of the Equal Protection doctrine because landlords are held to having one principal place of residence, while tenants are not.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Wasserman: 5-0)

MSC: To deny the appeal. (Hobson/Marshall: 3-2; Gruber, Murphy dissenting)

D. 656 O'Farrell St. #202

U001-49R

The tenant's appeal was filed thirty-five days late because the tenant was out of the country visiting an ailing relative, and English is not his first language.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs for fourteen of sixteen units was granted. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Marshall: 5-0)

E. 1573 - 48th Ave. #3

U001-47R

The tenants' petition alleging substantial decreases in housing services due to the loss of an outdoor electrical outlet and faucet was granted, and the landlord was found liable to the tenants in the amount of \$780.00. On appeal, the tenants claim: misrepresentation on the part of the landlord with regard to

ownership of the property; that the tenants were unable to cross-examine opposing witnesses; that hearsay evidence offered by the landlord was improperly allowed into the record; that the amounts granted are inadequate compensation; and that the hearing officer should have disciplined the landlord's attorney for threatening to file a lawsuit against the tenants.

MSC: To deny the appeal. (Gruber/Marshall: 5-0)

F. 466 Castro St.

U001-33A

The tenant's petition alleging substantially decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$3,595.00 due to serious habitability defects on the premises. On appeal, the landlord claims that he failed to appear at the hearing because he got caught in accident-related traffic; that the roof and gutter were repaired as of March, 1998; and that the back porch does not have rotted floor boards.

MSC: To accept the appeal and remand the case for a new hearing.
(Murphy/Justman: 5-0)

G. 221 Noe St. #3

U001-50R

The tenant's appeal was filed thirteen days late because he did not receive a copy of the Decision of Hearing Officer on Remand.

MSC: To find good cause for the late filing of the appeal.
Becker/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs was granted, in part. The landlord's appeal regarding the hearing officer's discontinuation of passthroughs that had been, in effect, "banked" was accepted, as was the tenant's appeal on the grounds of deferred maintenance. In the Decision on Remand, the hearing officer reinstated the banked passthrough amounts, but denied the tenant's deferred maintenance claim. The tenant now appeals the remand decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

H. 257 So. Van Ness Ave.

U001-35A

The landlords' petition for exemption due to substantial rehabilitation and certification of capital improvement costs was denied. On appeal, the case was remanded in order to provide the landlords with another opportunity to properly document capital improvement costs. In the Decision on Remand, a monthly passthrough in the amount of \$142.88 was approved for both units in this two-unit building. On further appeal, the landlords assert that: the completion date for the last item of work should be considered the completion date for all of the

work, since this was a large, complex renovation project of a building that was "red-tagged" after the Loma Prieta earthquake; the hearing officer consistently interpreted the Regulations in a way disfavorable to the landlords; expenses that were incorrectly categorized should have been shifted to other categories; Small Business Administration documents that support the landlords' claims were ignored by the hearing officer; and the landlords would have been financially better off if they had demolished the building.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

I. 367 Capp St.

U001-34A

Two tenant petitions alleging decreased housing services were granted, in part, and the landlord was found liable to each tenant in the amount of \$725.00 due to loss of a water supply to the back yard and loss of access to the back yard from the street. On appeal, the landlord claims that it is unfair to require that 30-day notice be given to restore the prior base rent amount, when the water service was restored several months ago; and that the base rent amount in the Decision is incorrect.

MSC: To accept the appeal and remand the case to determine the date that the rent reductions should terminate based on proof of restoration of the service and for a Technical Correction regarding the base rent amount; a hearing will be held only if necessary. (Murphy/Justman: 5-0)

J. 1040 Leavenworth St. #21

U001-51R

The tenant's appeal was filed three months late because she did not realize that the capital improvement certification provisions of the Rent Ordinance are not applicable to recipients of tenant-based rental assistance.

MSC: To find good cause for the late filing of the appeal.
(Becker/Justman: 5-0)

The landlords' petition for certification of capital improvement costs was granted, in part. One tenant appeals the decision because she is on Section 8, and the capital improvement provisions of the Rent Ordinance do not apply to her unit.

MSC: To accept the appeal and remand the case to the hearing officer on the record to dismiss the petition as to this tenant due to the inapplicability of the capital improvement provisions of the Ordinance to recipients of tenant-based rental assistance.
(Becker/Justman: 5-0)

IV. Communications

In addition to correspondence concerning cases on the calendar, the Landlord Commissioners distributed a proposed revision of Rules and Regulations Section 6.14 that they believe conforms that Section to the requirements of the Costa-Hawkins Rental Housing Act.

V. Calendar Items

November 30, 1999 - NO MEETING

December 7, 1999

6:30 9 appeal considerations (2 cont. from 11/9/99)
Appeal Hearing:
 2490 Bryant St. T001-81A (rescheduled from 9/7/99)

VI. Adjournment

President Wasserman adjourned the meeting at 7:35 p.m.

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,
December 7, 1999
25 Van Ness Avenue, #70, Lower Level

A G E N D A

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 3629 Mission St. U001-28A
(cont. from 11/9/99)

The landlord appeals the decision denying a claim of unlawful rent increase but granting a claim of decreased housing services.

B. 3271 Harrison St. U001-29A
(cont. from 11/9/99)

The landlord appeals the decision granting claims of decreased housing services due to unreasonable withholding of the right to sublet and failure to repair.

C. 798 Geneva Ave. U001-36A

The landlord appeals the decision denying a market rent increase based on Costa-Hawkins.

D. 44 Richland Ave. #A U001-37A

The landlord appeals the decision granting a claim of decreased housing services due to the loss of a parking space.

E. 795 Burnett Ave. U001-38A

The landlord appeals the decision certifying capital improvement costs on the issue of allocation.

F. 1388 California St. #403 U001-39A

The landlord appeals the decision granting a claim of decreased housing services.

G. 100 Broderick St. #204 U001-40A

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

H. 378 Golden Gate Ave. #326 U001-52R

One tenant appeals the Minute Order granting certification of capital improvement costs on the grounds of financial hardship.

I. 1025 Post St. #47 U001-41A

The landlord appeals the amount of the rent reduction granted due to the conversion from landlord-paid central heat to tenant-paid electrical heat.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, December 7, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 320

I. Call to Order

Vice-President Marshall called the meeting to order at 6:15 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Lightner;
Marshall.

Commissioners not Present: Mosser; Murphy; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:27 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 16, 1999.
(Becker/Gruber: 4-0)

IV. Consideration of Appeals

A. 3629 Mission St.

U001-28A
(cont. from 11/9/99)

The tenant's petition was granted as to various decreased housing services claims and the landlord, who failed to appear at the hearing, was found liable to the tenant in the amount of \$1,802.50. On appeal, the landlord claims not to have received notice of the hearing timely, because it was delivered to the subject building; that she ought not to be held responsible for problems that had existed for many years under prior ownership of the building, especially since she has undertaken repairs; that the tenant accepted the condition of the unit when she rented it; that the tenant was uncooperative in providing access to the unit; and the tenant's petition is in retaliation for her rent having been increased.

This case was continued from the November 9th meeting in order for staff to write to the landlord and obtain a statement under penalty of perjury regarding her failure to appear at the hearing.

MSC: To accept the appeal and remand the case to the hearing officer for a new hearing with notice to the prior and current owners of the property. (Lightner/Gruber: 4-0)

B. 3271 Harrison St.

U001-29A

(cont. from 11/9/99)

MSC: To recuse Commissioner Becker from consideration of this case. (Gruber/Lightner: 4-0)

The tenant's petition alleging substantial decreases in housing services was granted, in part. The landlord was found liable to the tenant in the amount of \$5,866.39 due to the landlord's failure to allow the tenant to obtain a replacement roommate, even though the governing lease contains a consent clause. The tenant failed to meet her burden of proving that certain repair issues constituted substantial decreases in housing services; however, an otherwise allowable rent increase was deferred until the time that the repairs were effectuated. The landlord appeals, maintaining that the hearing officer ignored the fact that the tenant is violating the rental agreement by having house guests, for which he could recover possession of the premises; that there are factual errors in the Decision; Rules and Regulations Section 6.15(d) is inapplicable to this case; and the standards for reasonable withholding of consent found in the Kendall case are inapplicable in a residential context.

Since the landlord appellant only received the first page of the Hearing Officer's two-page response memorandum, consideration of this matter was continued from the November 9th meeting in order for the landlord to have an opportunity to reply to the memo.

MSC: To deny the appeal. (Hobson/Marshall: 4-0)

C. 44 Richland Ave. #A

U001-37A

The tenant's petition alleging a substantial decrease in housing services due to the loss of his right to park in a space in front of the building was granted and the landlord was found liable to the tenant in the amount of \$1,900.00. On appeal, the landlord asserts that: the tenant failed to produce a lease that showed that parking was included in his tenancy but, rather, the tenant "usurped" the use of the space; the tenant did not pay additional compensation for use of the parking area, and therefore no rent reduction is warranted; the \$100 valuation is excessive for an uncovered, unsecured space; and there is plentiful off-street parking available in the area, so no substantial decrease in services exists.

MSC: To deny the appeal as to all issues except for the reasonable value of the parking space. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

MSC: To accept the appeal and remand the case to the hearing officer in order for both parties to offer evidence as to the value of the parking space; a hearing will be held only if necessary. (Gruber/Lightner: 4-1; Becker dissenting)

D. 798 Geneva Ave.

U001-36A

The tenant's petition alleging an unlawful increase in rent from \$600 to \$1,500 per month was granted. The hearing officer found that the landlord did not have the right to increase the rent based on Costa-Hawkins because the landlord had accepted rent from the tenant over a protracted period of time and had waived a prohibition against subletting through his conduct. On appeal, the landlord argues that the hearing officer erred by not explicitly making a finding that the tenant entered possession of the premises as a subtenant; that the tenant became an assignee after his mother, the original tenant, vacated the premises; that the landlord's acceptance of rent from the tenant did not constitute a waiver because the landlord did not receive written notice of the tenant's occupancy of the premises and thereafter accept rent; and that the tenant attempted to deceive the landlord into accepting rent by claiming to be residing on the premises only temporarily.

MSC: To accept the appeal and remand the case for a hearing on the issues of waiver and estoppel. (Lightner/Justman: 4-1; Marshall dissenting)

E. 795 Burnett Ave.

U001-38A

The landlords' petition for certification of the costs of new roofs, roof decks and glass doors to 3 of 12 units was granted only in part. The hearing officer found that the tenants should be responsible only for the costs of the new tar and gravel roofs, but that the sliding glass doors and roof decks installed adjacent to the units one floor above primarily benefit the tenants residing in those units. On appeal, the landlords maintain that the hearing officer's finding that the new roofs alone provided sufficient waterproofing for the units below was in error, and contrary to opinions from licensed contractors. They claim that only improvements deemed necessary to eliminate leaks were undertaken, which also benefits the apartments below.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

F. 1388 California St. #403

U001-39A

The tenant's petition alleging a substantial decrease in housing services due to an unreliable electrical system with resulting power outages and surges was granted and the landlord was found liable to the tenant in the amount of \$650.00. The landlord appeals, asserting that: the tenant interfered with the landlord's electrician when he was sent in to make repairs; the tenant has purposely overloaded the electrical circuits with musical equipment; and the

problem is caused by the tenants in the building, who use too many appliances per electrical outlet.

MSC: To accept the appeal and remand the case for a hearing to take evidence as to the basis for the April 9th Correction Notice and the nature of the problems to be corrected; if those problems relate to the power outages, then a decrease in services will be found to have occurred. If, however, the problems are unrelated to the provision of electrical service, then no substantial decrease in services will be found.
(Justman/Gruber: 5-0)

G. 100 Broderick St. #204

U001-40A

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted. An annual rent increase was deferred for 1-1/2 months and the landlord was found liable to the tenant in the amount of \$3,117.50 due to habitability problems on the premises. On appeal, the landlord claims that: the tenant has failed to provide notice of the defects in her unit, and has manufactured evidence that she did so; the tenant failed to provide access to her unit in order that repairs could be effectuated; the problem with the toilet was caused by a toothbrush, which could only have been placed there by the tenant; a new oven was provided within 9 days of notice to the landlord; although the tenant alleged a mildew problem at an earlier Rent Board hearing, she refused to provide the landlord with an opportunity to inspect the unit; and some of the problems are caused by the tenant's housekeeping habits, and the fact that she has two dogs in her unit.

MSC: To deny the appeal except to remand the case to the hearing officer for the two Technical Corrections regarding dates pointed out by the tenant in her response to the appeal.
(Becker/Marshall: 5-0)

H. 378 Golden Gate Ave. #326

U001-52R

The landlords' petition for certification of capital improvement costs was granted. One tenant appeals on the grounds of financial hardship, and alleges that the Minute Order requires a Technical Correction as to his move-in date.

MSC: To accept the appeal and, pursuant to the agreement of the landlord, grant a one-year deferral of the passthrough; a Technical Correction as to the tenant's move-in date will be issued if necessary. (Gruber/Lightner: 5-0)

I. 1025 Post St. #47

U001-41A

The tenant's petition alleging a substantial decrease in housing services due to a conversion from a central heating system paid by the landlord to electrical heat paid by the tenants was granted and the landlord was found liable to the

tenant in the amount of \$66.22 per month. On appeal, the landlord claims that the hearing officer erred in assuming that the heater must run at full wattage at all times, and ignored the landlord's empirical data concerning actual usage.

MSC: To accept the appeal and remand the case for a hearing to determine the tenant's actual usage without assuming that the heat is turned on thirteen hours per day.
(Lightner/Gruber: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a request for an Amicus Brief from tenant Robert Copeland in the eviction case that his landlord, George Hoffberg, is appealing. Mr. Hoffberg wishes to merge his and the tenant's rental unit for purposes of owner-occupancy. The Commissioners agreed to file an Amicus only because Mr. Hoffberg currently does not have a valid permit to merge the units.

VI. Director's Report

Executive Director Grubb informed the Commissioners that proposed amendments to the Rent Ordinance concerning the Ellis Act and the change in title of the Hearing Officers to Administrative Law Judges were heard today in Committee and passed out unanimously to the full Board of Supervisors. Additionally, separate legislation to increase amounts paid to low-income tenants displaced pursuant to an Ellis eviction was introduced at the Board of Supervisors at yesterday's meeting. The Deputy Director received permission from the Commissioners to remind Attorney Steve Rosenthal and Skyline Realty, involved in two different cases before the Board, that violations of the Ordinance may constitute misdemeanors pursuant to Ordinance Section 37.10A. The Staff and Commission Holiday Party, which will be held at the Office of the Rent Board on Friday, December 17th, was also discussed.

VII. Remarks from the Public

The landlord involved in the steam heat conversion case at 1025 Post Street (U001-41A) and his attorney, Dennis Hyde, addressed the Board regarding the formula used by hearing officers when calculating rent reductions in such cases, which they believe results in a windfall to tenants.

VIII. Calendar Items

December 14, 1999 - NO MEETING

December 21, 1999

6:00 **Public Hearing:** Proposed Amendments to Rules and Regs.
Section 6.15 (Leno Legislation)

IX. Adjournment

Vice-President Marshall adjourned the meeting at 8:30 p.m.



December 9, 1999

SF
R52
F1

12/21/99

NOTICE OF PUBLIC HEARING

DATE: December 21, 1999

TIME: 6:00 P.M.

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70 Lower Level
SAN FRANCISCO, CALIFORNIA

PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTIONS 6.15

The Rent Stabilization and Arbitration Board Commissioners are proposing amendments to the language in 6.15 of the Rules and Regulations.

Because the proposed amendment to this section is a substantive change, the proposed language and the current language of the section are presented as separate items for your comparison.

Written comments may be submitted prior to the hearing. Persons wishing to respond should do so by noon Wednesday December 15, 1999, to ensure that the Commissioners have time to consider all submissions. Oral testimony will also be taken on the 21st.

DOCUMENTS DEPT.

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PROPOSED AMENDMENTS TO BE CONSIDERED

1 Section 6.15A Subletting and Assignment - Where Rental Agreement Includes 2 an Absolute Prohibition Against Subletting and Assignment

4 This Section 6.15A applies only when a lease or rental agreement includes an absolute
5 prohibition against subletting and assignment.

6 (a) For agreements entered into on or after May 25, 1998, breach of an absolute
7 prohibition against subletting or assignment may constitute a ground for termination of
8 tenancy pursuant to, and subject to the requirements of, Section 37.9(a)(2) and subsection (b)
9 below, only if such prohibition was adequately disclosed to and agreed to by the tenant at the
10 commencement of the tenancy. For purposes of this subsection, adequate disclosure shall
11 include satisfaction of one of the following requirements:

12 (1) the prohibition against sublet or assignment is set forth in enlarged or
13 boldface type in the lease or rental agreement and is separately initialed by the tenant; or

14 (2) the landlord has provided the tenant with a written explanation of the
15 meaning of the absolute prohibition, either as part of the written lease or rental agreement, or
16 in a separate writing.

17 (b) If the lease or rental agreement specifies a number of tenants to reside in a
18 unit, or where the open and established behavior of the landlord and tenants has established
19 that the tenancy includes more than one tenant, then the replacement of one or more of the
20 tenants by an equal number of tenants, subject to subsections (c) and (d) below, shall not
21 constitute a breach of the lease or rental agreement for purposes of termination of tenancy
22 under Section 37.9(a)(2) of the Ordinance.

23 (c) If the tenant makes an initial written request to the landlord for permission to
24 sublease in accordance with Section 37.9(a)(2), and the landlord fails to respond in writing
25 within fourteen (14) days, the subtenancy is deemed approved pursuant to Ordinance Section
26 37.9(a)(2)

27

28

1 (d)(1) The Tenant's inability to obtain the landlord's consent to subletting or
2 assignment shall not constitute a breach of the lease or rental agreement for purposes of
3 eviction under Section 37.9(a)(2), where the subletting or assignment is deemed approved
4 pursuant to subsection (c) above or where the landlord has unreasonably withheld consent to
5 such change. Withholding of consent by the landlord shall be deemed to be unreasonable if
6 the tenant has met the following requirements:

7 (i) The tenant has requested in writing the permission of the landlord to
8 the sublease or assignment prior to the commencement of the proposed new tenant's or new
9 subtenant's occupancy of the unit;

10 (ii) The proposed new tenant or new subtenant, if requested by the
11 landlord, has completed the landlord's standard form application, or, in the event the landlord
12 fails to provide an application or has no standard form application, the proposed new tenant
13 or new subtenant has, upon request, provided sufficient information to allow the landlord to
14 conduct a typical background check, including credit information, income information,
15 references, and background information;

16 (iii) The tenant has provided the landlord five (5) business days to process
17 the proposed new tenant's or new subtenant's application;

18 (iv) The proposed new tenant or new subtenant meets the regular
19 reasonable application standards of the landlord;

20 (v) The proposed new tenant or new subtenant has agreed to sign and be
21 bound by the current rental agreement between the landlord and the tenant;

22 (vi) The tenant has not, without good cause, requested landlord consent to
23 a new tenant or new subtenant more than one time per existing tenant residing in the unit
24 during the previous 12 months;

25 (vii) The tenant is requesting replacement of a departing tenant or tenants
26 with an equal number of new tenants.

(2) This subsection (d) shall not apply to assignment of the entire tenancy or subletting of the entire unit.

(e) Where a lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, failure of the landlord to consent to the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (d)(1) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

(f) Nothing in this Section shall prevent the landlord from providing a replacement new tenant or new subtenant with written notice as provided under Section 6.14 that the tenant is not an original tenant as defined in Section 6.14(a) and that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

Section 6.15B Subletting and Assignment - Where Rental Agreement

Contains a Clause Requiring Landlord Consent to Subletting and Assignment

This Section 6.15B applies only when a lease or rental agreement includes a clause requiring landlord consent to assignment or subletting.

(a) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, then the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (b) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

(b) The Tenant's inability to obtain the landlord's consent to subletting or assignment shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the landlord has unreasonably withheld consent to

such change. Withholding of consent by the landlord shall be deemed to be unreasonable if
the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to
the sublease or assignment prior to the commencement of the proposed new tenant's or new
subtenant's occupancy of the unit;

(ii) The proposed new tenant or new subtenant, if requested by the
landlord, has completed the landlord's standard form application, or, in the event the landlord
fails to provide an application or has no standard form application, the proposed new tenant
or new subtenant has, upon request, provided sufficient information to allow the landlord to
conduct a typical background check, including credit information, income information,
references, and background information;

(iii) The tenant has provided the landlord five (5) business days to process
the proposed new tenant's or new subtenant's application;

(iv) The proposed new tenant or new subtenant meets the regular
reasonable application standards of the landlord;

(v) The proposed new tenant or new subtenant has agreed to sign and be
bound by the current rental agreement between the landlord and the tenant;

(vi) The tenant has not, without good cause, requested landlord consent to
a new tenant or new subtenant more than one time per existing tenant residing in the unit
during the previous 12 months;

(vii) The tenant is requesting replacement of a departing tenant or tenants
with an equal number of new tenants.

(2) This subsection (b) shall not apply to assignment of the entire tenancy
or subletting of the entire unit.

(e) Where a lease or rental agreement specifies the number of tenants to reside in
a unit, or where the open and established behavior of the landlord and tenants has established
that the tenancy includes more than one tenant, failure of the landlord to consent to the

1 replacement of one or more of the tenants by an equal number of tenants, subject to
2 subsection (b) above, may constitute a decrease in housing services pursuant to Section 10.10
3 of these Regulations.

4 (f) Nothing in this Section shall prevent the landlord from providing a
5 replacement new tenant or new subtenant with written notice as provided under Section 6.14
6 that the tenant is not an original tenant as defined in Section 6.14(a) and that when the last of
7 the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for
8 purposes of determining the rent under the Rent Ordinance.

9

10 **Section 6.15C Master Tenants**

11 (1) For any tenancy commencing on or after May 25, 1998, a landlord who is not
12 an owner of record of the property and who resides in the same rental unit with his or her
13 tenant (a "Master Tenant") may evict said tenant without just cause as required under Section
14 37.9(a) only if, prior to commencement of the tenancy, the Master Tenant informs the tenant
15 in writing that the tenancy is not subject to the just cause provisions of Section 37.9. A
16 landlord who is an owner of record of the property and who resides in the same rental unit
17 with his or her tenant is not subject to this additional disclosure requirement.

18 (2) In addition, for any tenancy commencing on or after May 25, 1998, a Master
19 Tenant shall disclose in writing to a tenant prior to commencement of the tenancy the amount
20 of rent the Master Tenant is obligated to pay to the owner of the property.
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2 CURRENT VERSION OF SECTION 6.15

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5 **Section 6.15 Subletting and Assignment**

6 (Effective March 24, 1998, except paragraphs (a) and (f) which are
7 effective May 25, 1998)

8 (a) For agreements entered into on or after May 25, 1998, for purposes of this
9 subsection (a), where a lease or rental agreement contains an enforceable absolute
10 prohibition against sublet or assignment, breach of such covenant may constitute a
11 ground for termination of tenancy pursuant to Section 37.9(a)(2) only if such prohibition
12 was adequately disclosed to and agreed to by the tenant at the commencement of the
13 tenancy. For purposes of this subsection, adequate disclosure shall include satisfaction
14 of one of the following requirements:

15 (1) the prohibition against sublet or assignment is set forth in enlarged or
16 boldface type in the lease or rental agreement and is separately initialed by the tenant;
17 or

18 (2) the landlord has provided the tenant with a written explanation of the
19 meaning of the absolute prohibition, either as part of the written lease or rental
20 agreement, or in a separate writing.

21 (b) If the lease or rental agreement specifies a number of tenants to reside in
22 a unit, or where the open and established behavior of the landlord and tenants has
23 established that the tenancy includes more than one tenant, and, where a lease or rental
24 agreement, whether oral or written, permits sublet or assignment or requires a landlord's
25 consent to sublet or assignment, or where an absolute prohibition against sublet or
26 assignment has been waived, then the replacement of one or more of the tenants by an
27 equal number of tenants, subject to subsection (c) below, shall not constitute a breach of
28 the lease or rental agreement for purposes of termination of tenancy under Section
37.9(a)(2) of the Ordinance.

(c) (1) If a lease or rental agreement requires a landlord's consent to sublet or assignment, the tenant's inability to obtain such consent shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the landlord has unreasonably withheld consent to such change. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has met the following requirements:

following requirements:

(i) The tenant has requested in writing the permission of the landlord to the sublease or assignment prior to the commencement of the proposed new tenant's or new subtenant's occupancy of the unit;

(ii) The proposed new tenant or new subtenant, if requested by the landlord, has completed the landlord's standard form application, or, in the event the landlord fails to provide an application or has no standard form application, the proposed new tenant or new subtenant has, upon request, provided sufficient information to allow the landlord to conduct a typical background check, including credit information, income information, references, and background information;

(iii) The tenant has provided the landlord five (5) business days to process the proposed new tenant's or new subtenant's application;

(iv) The proposed new tenant or new subtenant meets the regular reasonable application standards of the landlord;

(v) The proposed new tenant or new subtenant has agreed to sign and be bound by the current rental agreement between the landlord and the tenant;

(vi) The tenant has not, without good cause, requested landlord consent to a new tenant or new subtenant more than one time per existing tenant residing in the unit during the previous 12 months;

(vii) The tenant is requesting replacement of a departing tenant or tenants with an equal number of new tenants.

(2) This subsection (c)(1) shall not apply to assignment of the entire

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1 tenancy or subletting of the entire unit.

2 (d) Where a lease or rental agreement, whether oral or written, permits
3 subletting or assignment with landlord consent, or where an absolute prohibition against
4 sublet or assignment is waived, and the lease or rental agreement specifies the number
5 of tenants to reside in a unit, or where the open and established behavior of the landlord
6 and tenants has established that the tenancy includes more than one tenant, failure of
7 the landlord to consent to the replacement of one or more of the tenants by an equal
8 number of tenants, subject to subsection (c)(1) above, may constitute a decrease in
9 housing services pursuant to Section 10.10 of these Regulations.

10 (e) Nothing in this Section shall prevent the landlord from providing a
11 replacement new tenant or new subtenant with written notice as provided under Section
12 6.14 that the tenant is not an original tenant as defined in Section 6.14(a) and that when
13 the last of the tenant(s) who meet the latter definition vacates the premises, a new
14 tenancy is created for purposes of determining the rent under the Rent Ordinance.

15 (f) (1) For any tenancy commencing on or after May 25, 1998, a landlord who
16 is not an owner of record of the property and who resides in the same rental unit with his
17 or her tenant (a "Master Tenant") may evict said tenant without just cause as required
18 under Section 37.9(a) only if, prior to commencement of the tenancy, the Master Tenant
19 informs the tenant in writing that the tenancy is not subject to the just cause provisions of
20 Section 37.9. A landlord who is an owner of record of the property and who resides in
21 the same rental unit with his or her tenant is not subject to this additional disclosure
22 requirement.

23 (2) In addition, for any tenancy commencing on or after May 25, 1998, a
24 Master Tenant shall disclose in writing to a tenant prior to commencement of the tenancy
25 the amount of rent the Master Tenant is obligated to pay to the owner of the property.

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City and County of San Francisco



**Residential Rent Stabilization
and Arbitration Board**

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT WILLIE L. BROWN, JR.
STABILIZATION & ARBITRATION BOARD,
*MAYOR***

Tuesday, 6:00 p.m.,

December 21, 1999

25 Van Ness Avenue, #70, Lower Level

**JOSEPH GRUBB
*EXECUTIVE DIRECTOR***

AGENDA

LARRY BEACH BECKER
SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVE MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Public Hearing:

6:00 Proposed Amendments to Rules and Regulations Section 6.15 in Accordance with the Requirements of the Leno Legislation

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

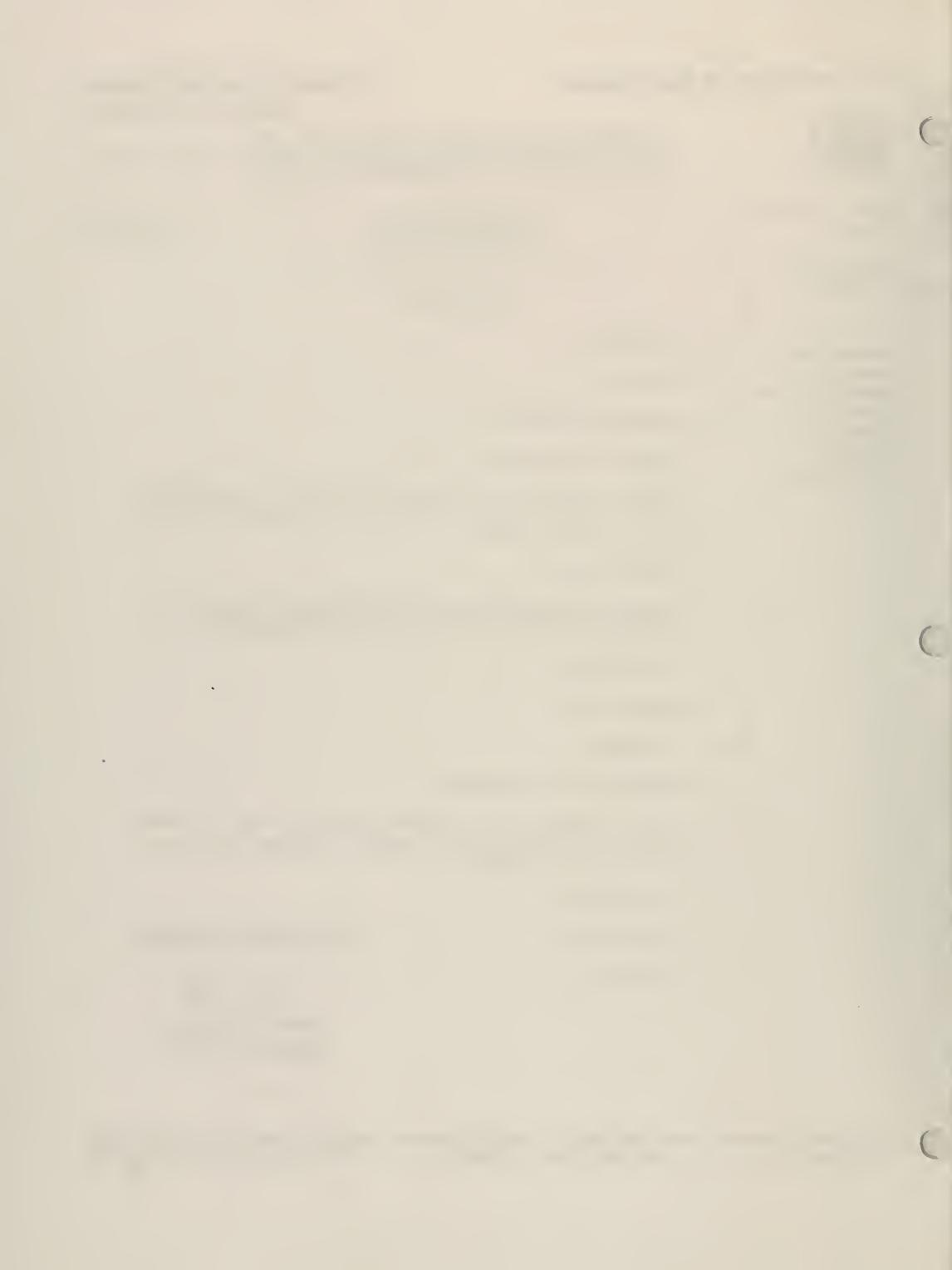
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MAYOR

SHARON K. WASSERMAN
PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

DOCUMENTS DEPT.

Tuesday, December 21, 1999 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

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NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Lightner; Marshall; Mosser; Wasserman.

Commissioners not Present: Murphy.

Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:11 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 23, and December 7, 1999. (Gruber/Becker: 5-0)

IV. Remarks from the Public

1. Landlord Marian Halley stated that Rules and Regulations Section 6.15 is "the straw that breaks the camel's back." She asked the Commissioners when she should speak, and was advised to do so during the Public Hearing portion of the Agenda.

2. Landlord Peter Chen asked what happens if a tenant sublets without the owner's consent and the sublessee turns out to be a criminal, or creates a nuisance.

V. Public Hearing

A Public Hearing on proposed amendments to Rules and Regulations Section 6.15 was convened at 6:20 p.m. and concluded at 6:52 p.m. The proposed amendments conform the procedures for obtaining a replacement roommate in the event of an absolute prohibition against subletting with those outlined in Section 6.15 for situations where the rental agreement contains a consent clause, in accordance with legislation sponsored by Supervisor Leno. In response to many communications received by the Board from small landlords,

and prior to taking testimony, President Wasserman provided an explanation as to the scope of the proposed amendments.

Many individuals had expressed the fear that the 14 days allowed in the Ordinance for a landlord to respond to a tenant's request to sublet was being shortened to 5 days. President Wasserman explained that the 14 day period to obtain consent in the event of an absolute prohibition was new, and codified in the Ordinance pursuant to the Leno legislation. However, for consent clauses, Section 6.15 had always provided the landlord with 5 days to process a proposed new subtenant's rental application; for absolute prohibitions, the amendments add the 5 days for processing the application to the 14 days the landlord has to respond to a request to sublet.

The Board then heard from the following landlords:

1. Marian Halley: the Regulations should differentiate between Prop I landlords, whose property ownership is attached to home ownership; she no longer has control over who lives with her in her two-unit building; the tenant "starts the clock running"; and, since it is too onerous to keep up with the complicated regulations, she will sell her building.
2. Tess Wellborn: the Board should cut the number of regulations in half; 5 days may be adequate for individuals with secretaries and offices, but not for small property owners, 14 days is unreasonable; there are no "teeth" in 6.15 to force tenants to comply with the procedural requirements; and what happens when there is more than one roommate change per year?
3. Andrew Long: a tenant could wait until the landlord is on vacation to slip in a deadbeat friend, so tenants should have to serve notice on the owner.
4. Gary Briggs: the written request to sublet should be served by the tenant on the landlord in the same way as an eviction notice.
5. Peter Chin: the law is confusing to a non-attorney, but tenants can obtain free counsel.
6. W. E. Winn, Jr.: agrees with all that's been said; "draconian rules implemented by sincere but misguided people" have led to renting out fewer units in his building.
7. Janan New, on behalf of the S.F. Apartment Association: there is no enforcement mechanism for non-compliance by tenants; what happens when an owner's out of town?; and it should be clarified that an owner does not have to allow the number of occupants in a unit to expand.
8. Linda Dunn: she is subsidizing a high-income tenant in her building; rent control's not serving the population for which it was intended.

9. Bill Quan: it can take 8-9 days to process a rental application; and the language in subsection 6.15(d)(1)(vi), "without good cause", is too vague.
10. Paulette Burrows, representing a large property owner: apartments will be sitting vacant while the owner is waiting for information from the tenant.
11. Nancy Tucker: the Commissioners should ask the Supervisors to think about small owners, who are not lawyers, and have real jobs; "treat us like professionals and we'll get out of the business"; "we're not greedy, just fed up."
12. Michelle O'Leary: trying to help her mother with property management, but cannot understand the regulations; only large owners will be left.
13. Tess Wellborn: the regulations make landlords not want to allow roommates and restrict occupancy to one person only.
14. Michelle Horneff, landlord representative: if a landlord rejects an applicant, is the clock still ticking?
15. Jennifer Finley of S.F.A.A.: the Board should clarify the timelines after a landlord has rejected an applicant.

After discussing the public testimony, some of the Commissioners voiced concerns regarding the possibility that a tenant could purposely request the landlord's consent to a sublet at a time when they knew that the owner would be out of town, and therefore an unqualified applicant could be "deemed" approved by the landlord's unintentional failure to respond. Therefore, it was moved that subsection 6.15A(c) be amended to read as follows (new language underlined):

(c) If the tenant makes an initial written request to the landlord for permission to sublease in accordance with Section 37.9(a)(2), and the landlord fails to respond in writing within fourteen (14) days of actual receipt of written notice, the subtenancy is deemed approved pursuant to Ordinance Section 37.9(a)(2).

MSC: To amend the proposed language to provide that, where the rental agreement includes an absolute prohibition against subletting and assignment, a landlord's failure to respond within 14 days of actual receipt of written notice from the tenant shall result in the proposed subtenancy being deemed approved. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

MSC: To approve the rest of the proposed amendments to Rules and Regulations Section 6.15, as put out for Public Hearing. (Becker/Lightner: 4-1; Marshall dissenting)

VI. Communications

The Commissioners received the office workload statistics for the month of October, 1999.

VII. Director's Report

Executive Director Grubb informed the Board that Supervisor Ammiano's legislation increasing payments pursuant to Ellis evictions to \$4,500 to low-income tenants and to \$3,000 to elderly and disabled tenants was passed at First Reading before the Board of Supervisors on Monday. Similar legislation introduced by Supervisor Becerril was introduced and will be referred to Committee. The Rent Board's proposed amendments to the Rent Ordinance to conform it to Costa-Hawkins was heard at the Housing and Social Policy Committee today. Upon a request by Ted Gullickson of the Tenants' Union that the Supervisors include eviction controls on newly constructed units, this matter was continued to January in order for the City Attorney to draft such an amendment.

IV. Remarks from the Public (cont.)

3. Landlord Nancy Tucker informed the Board that there are 5 pending pieces of legislation that will affect her property, and that it is because of this that she is "overwhelmed."
4. Landlord Orion Culver said that elderly and non-English speaking landlords are even less capable of protecting themselves.
5. Landlord Marian Halley informed the Board that it cost a landlord she knows \$46,000 to evict a tenant who was running an illegal business and driving other tenants out of the unit. She said that she would rather lose half a month's rent than the right to screen her tenants.
6. Gary Briggs said that it is unfair when a new tenant moving into a unit gets charged more than their proportional share of the rent.
7. Landlord Peter Chen expressed his belief that San Francisco landlords "want out", out-of-town landlords won't come in, and there will be fewer landlords and less housing.
8. Landlord Michelle O'Leary remarked on the high cost of eviction, and said that tenant-to-tenant conflicts fall on landlords.
9. Landlord Tess Wellborn recommended that the Board adopt a principal place of residency requirement for tenants.

VIII. Calendar Items

December 28, 1999 - NO MEETING

January 4, 2000

9 appeal considerations (1 cont. from 11/9/99)

The Commissioners also decided to schedule a Special Legislative Session on January 25, 2000 to discuss Rules Section 6.14 and Costa-Hawkins.

IX. Adjournment

President Wasserman adjourned the meeting at 8:05 p.m.

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Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

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